



भारत का राजपत्र The Gazette of India

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सं० 32] नई दिल्ली, अगस्त 2 — अगस्त 8, 2015, शनिवार/ श्रावण 11—श्रावण 17, 1937
No. 32] NEW DELHI, AUGUST 2 — AUGUST 8, 2015, SATURDAY/SRAVANA 11—SRAVANA 17, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II — खण्ड 3—उप-खण्ड (ii)
PART II — Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 22 जून, 2015

का.आ. 1544.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अजय त्यागी, अपर सचिव (निवेश), आर्थिक कार्य विभाग, वित्त मंत्रालय को तत्काल प्रभाव से और अगले आदेश होने तक, श्री राजीव महर्षि के स्थान पर भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में निदेशक नामित करती है।

[फा. सं. 7/2/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 22nd June, 2015

S.O. 1544.—In exercise of the powers conferred by clause (d) of Sub-section (1) of Section 8 of the Reserve

3223GI/2015

Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Ajay Tyagi, Additional Secretary (Investment), Department of Economic Affairs, Ministry of Finance, to be a Director on the Central Board of Directors of Reserve Bank of India with immediate effect and until further orders. *vice* Shri Rajiv Mehrishi.

[F.No. 7/2/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 6 जुलाई, 2015

का.आ. 1545.—राष्ट्रीय बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (2) में विनिर्दिष्ट व्यक्ति के स्थान पर कालम (1) में विनिर्दिष्ट यूनियन बैंक ऑफ इंडिया में तत्काल प्रभाव से और अगले आदेश होने तक, निदेशक नामित करती है:—

(3267)

क्रम सं.	बैंक का नाम	वर्तमान निदेशक का नाम	प्रस्तावित व्यक्ति का नाम
1	2	3	4
1.	यूनियन बैंक ऑफ इंडिया	श्री दीपक सिंघल, पीसीजीएम एवं आरडी, दिल्ली	श्री ए. के. मिश्रा, मुख्य महाप्रबंधक, जोखिम निगरानी विभाग, भारतीय रिजर्व बैंक, भू-तल, गार्मेंट हाऊस, वर्ली, मुम्बई-400 018

[फा. सं. 6/3/2011-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 6th July, 2015

S.O. 1545.—In exercise of the powers conferred by clause (c) of sub-section (3) of Section 9 of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates the persons specified in column (3) of the table below as Director of Union Bank of India specified in column (1) thereof in place of the person specified in column (2) of said Table, with immediate effect and until further orders:—

Sl. No.	Name of the Bank	Name of the Existing Director	Name of the Persons proposed
(1)	(2)	(3)	(4)
1.	Union Bank of India	Shri Deepak Singhal, PCGM & RD, Delhi	Shri A. K. .Mishra, CGM, Risk Monitoring Department, Reserve Bank of India, Ground Floor, Garment House, Worli Mumbai-400 018

[F.No. 6/3/2011-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 7 जुलाई, 2015

का.आ. 1546.—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उप-धारा (2) एवं धारा 7 की उप-धारा (1) के साथ पठित धारा 6 की उप-धारा (1) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री श्रीराम कल्याणरमन (जन्म तिथि: 28.03.1863) को पद का कार्यभार ग्रहण करने की तारीख से पांच वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, 75,500-80,000/- रुपए के वेतनमान में राष्ट्रीय आवास बैंक के प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी के रूप में नियुक्त करती है।

[फा. सं. 7/9/2013-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 7th July, 2015

S.O. 1546.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 6 read with

sub-section (2) of Section 6 of and sub-section (1) of Section 7 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby appoints Shri Sriram Kalyanraman (DoB: 28.03.1963) as Managing Director & Chief Executive Officer, National Housing Bank in the scale of pay of Rs. 75,500-80,000/- for a period of five years with effect from the date of his assumption of charge of the post, or until further order, whichever is earlier.

[F.No. 7/9/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 27 जुलाई, 2015

का.आ. 1547.—केन्द्रीय सरकार आतंकवादी और विघटनकारी गतिविधि (निवारण) अधिनियम 1987 (1987 का अधिनियम संख्या 28) की धारा 13 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के अंतर्गत उत्तर प्रदेश राज्य में उपरोक्त अधिनियम की धारा 9 के अंतर्गत गठित नामित न्यायालय, कानपुर में दिल्ली विशेष पुलिस संठगन द्वारा जांच किए गए मामला संख्या आरसी 10(एस)/1993-एससीयू-V/एससी-II/सीबीआई/नई दिल्ली (एल डी अरोडा मर्डर केस) और उससे जुड़े अथवा उसके साथ घटित अन्य मामलों को संचालित करने के लिए एतद्वारा श्री कुमार रजत, लोक अभियोजक को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/43/2014-एवीडी-II]

अजीत कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 27th July, 2015

S.O. 1547.—In exercise of the powers conferred by sub-section (1) of sub-section 13 of the Terrorist and Druptive Activities (Prevention) Act, 1987, (Act No. 28 of 1987), the Central Government hereby appoints Shri Kumar Rajat, Public Prosecutor, CBI as Special Public Prosecutor for conducting trial of RC 10(S)/1993/SCU.V/

CBI/SPE/New Delhi (L.D. Arora murder case) in the Designated Court at Kanpur (Uttar Pradesh) constituted under the provisions of Section 9 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 and Appeals/Revisions in Appellate/Revisional Court and any other matter connected therewith or incidental thereto.

[F.No. 225/43/2014-AVD-II]
AJIT KUMAR, Under Secy.

नई दिल्ली, 30 जुलाई, 2015

का.आ. 1548.—केन्द्र सरकार एतद्वारा दिल्ली पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना द्वारा जांच हेतु विनिर्दिष्ट करती है नामतः—

- (क) (मध्य प्रदेश) मान्यताप्राप्त परीक्षा अधिनियम, 1937 (1937 का मध्य प्रदेश अधिनियम सं. 10) के अधीन किए गए दंडनीय अपराध तथा
- (ख) उपर्युक्त अपराध एवं उसी संव्यवहार में किए गए अथवा उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या अपराधों में किए गए प्रयास, दुष्प्रेरणाएं और षड्यंत्र।

[फा. सं. 228/31/2015-एवीडी-II]
अजीत कुमार, अवर सचिव

New Delhi, the 30th July, 2015

S.O. 1548.—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offences to be investigated by the Delhi Special Police Establishment namely:—

- (a) Offences punishable under The (Madhya Pradesh) Recognized Examinations Act, 1937 (Madhya Pradesh Act No. X of 1937) and
- (b) Attempts, abetments and conspiracies in relation to or in connection with the above mentioned offences and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/31/2015-AVD-II]
AJIT KUMAR, Under Secy.

नई दिल्ली, 30 जुलाई, 2015

का.आ. 1549.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखण्ड राज्य सरकार, गृह विभाग, रांची की सहमति से दिनांक 19.05.2015 की अधिसूचना सं. 10/सीबीआई-604/2014-2995 के तहत भारतीय दंड संहिता, 1860 (1860 का अधिनियम संख्या 45) की धारा 420, 467 और 468 के अंतर्गत कोतवाली (हिंद पीढ़ी) पुलिस स्टेशन में दिनांक 07.09.2014 के मामला सं. 797/2014 के अधीन

भारतीय दण्ड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 212 के अधीन कोतवाली (हिंद पीढ़ी) पुलिस स्टेशन के दिनांक 07.09.2014 के मामलों सं. 799/2014 में उपरोक्त अपराधों के संबंध में उकसाने और षड्यंत्र के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और न्यायाधिकार क्षेत्र का विस्तार संपूर्ण झारखण्ड राज्य पर करती है।

[फा. सं. 228/60/2014-एवीडी-II]
अजीत कुमार, अवर सचिव

New Delhi, the 30th July, 2015

S.O. 1549.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Jharkhand, Home Department, Ranchi vide Notification No. 10/C.B.I.-604/2014-2995 dated 19.05.2015, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jharkhand for investigation in the Kotwali (Hind Pidhi) Police Station Case No. 797/2014 dated 07.09.2014 under sections 420, 467 and 468 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and Kotwali (Hind Pidhi) Police Station Case No. 799/2014 dated 07.09.2014 under section 212 of the Indian Penal Code, 1860 (Act No. 45 of 1860), the abetment and conspiracy in relation to the above mentioned offences.

[F.No. 228/60/2014-AVD-II]
AJIT KUMAR, Under Secy.

नई दिल्ली, 30 जुलाई, 2015

का.आ. 1550.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राजस्थान सरकार, गृह (समूह-V) विभाग, जयपुर की सहमति से दिनांक 21.10.2014 की अधिसूचना सं. एफ. 19(99) गृह-5/2014 द्वारा अशोक नगर, पुलिस स्टेशन, जिला जयपुर दक्षिण में भारतीय दंड संहिता, 1860 (1860 का अधिनियम संख्या 45) की धारा 420, 467, 468, 471 तथा 120-ख के अधीन दिनांक 10.06.2014 को पंजीकृत एफआईआर 256/2014 और उक्त मामले में घटित अन्य किसी अपराध के अन्वेषण के लिए एतद्वारा दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और न्यायाधिकार क्षेत्र का विस्तार संपूर्ण राजस्थान राज्य पर करती है।

[फा. सं. 228/73/2014-एवीडी-II]
अजीत कुमार, अवर सचिव

New Delhi, the 30th July, 2015

S.O. 1550.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State

Government of Rajasthan, Home (Gr. V) Department, Jaipur
vide Notification No. F.19(99) Home-5/2014 dated
21.10.2014, hereby extends the powers and Jurisdiction of
the members of the Delhi Special Police Establishment to
the whole of the State of Rajasthan for investigation of FIR
No. 256/2014 dated 10.06.2014 under Sections 420, 467, 468,

471 and 120-B of the Indian Penal Code, 1860 (Act No. 45 of
1860) registered at Police Station, Ashok Nagar, District
Jaipur South or any other offences committed in the course
of the same transaction arising out of the said case.

[F. No. 228/73/2014-AVD-II]
AJIT KUMAR, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 16 जुलाई, 2015

का.आ. 1551.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:

अनुसूची

भारतीय मानक संख्या	भाग	अनु. भाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई दर	स्लैब में	शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर	स्लैब 1	इकाईयां		
								(रु.)			
6419	-	-	1996	संरचना इस्पात की गैस परिरक्षित आर्क वेल्डिंग के लिये वेल्डिंग छड़ें और अनाव्रत इलेक्ट्रोड-विशिष्ट	किलो ग्राम	1,79,000.00	1,43,200.00	0.12	सभी	-	22-06-2015

[संदर्भ: सीएमडी-2/16:6419]

जी. गुरुचरन, महानिदेशक

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 16th July, 2015

S.O. 1551.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:

SCHEDULE

SI No.	Part	Sec	Year	Product	Units	Minimum Marking Fee		Unit Rate	Units in	Remai-ning	Effective Date
						Large Scale	Small Scale	Slab -1	Slab-1		
6419	-	-	1996	Welding Rods and Bare Electrodes for Gas Shielded Arc Welding of Structural Steels-Specification	KG	1,79,000.00	1,43,200.00	0.12	All	-	22-06-2015

[Ref: CMD-2/16:6419]

G. GURUCHARAN, Director General

वस्त्र मंत्रालय

नई दिल्ली, 3 अगस्त, 2015

का.आ. 1552.—केन्द्रीय सरकार, (संघ के शासकीय प्रयोजनों के लिए) राजभाषा नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालय, जिसके 80. से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:

भारतीय कपास निगम लिमिटेड,
भवननारायण निलयम निवास,
कान्वेंट रोड, ज्योति महल होटल के समीप,
रायगढ़ा-765001 (उड़ीसा)

[सं.ई-11016/1/2015-हिंदी]
गीता नारायण, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 3rd August, 2015

S.O. 1552.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following office under the aegis of the Ministry of Textiles, in which more than 80% staff have acquired working knowledge of Hindi:

The Cotton Corporation of India Limited,
Bhavannarayana Nilayam Nivas,
Convent Road, Near Jyoti Mahal Hotel,
Rayagada-765001 (Odisha)

[No.E-11016/1/2015-Hindi]
GEETA NARAYAN, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1553.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑर्डनेन्स फैक्ट्री एंड आथर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 2014 का 1) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-14012/30/2013-आई आर (डीयू)]
पी.के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 22nd July, 2015

S.O. 1553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 01/2014

of the Cent. Govt. Indus. Tribunal-Cum-Labour Court, Kanpur now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Ordnance Factory & others and their workmen, which was received by the Central Government on 21/07/2015.

[No.L-14012/30/2013-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, KANPUR**

Industrial Dispute No. 01 of 2014**Between**

Sri Ravi son of Mithai Lal,
Block No. 11,
Kachhi Basti,
Govind Nagar Kanpur.

AND

Senior General Manager,
Ordnance Factory,
Kalpi Road,
Kanpur.

Sri Bhupender Singh
Son of Awadhesh Singh Rathore,
EWS 2508 Awas Vikas,
Kalyanpur,
Kanpur & others.

AWARD

1. Central Government, MoI, New Delhi, *vide* notification no. L-14012/30/2013-IR(DU) dated 22.01.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Sri Bhupender Singh Kanpur in terminating the services of Sri Ravi son of Mithai Lal, w.e.f. 10.04.2013 is just fair and legal, If not to what relief the workman concerned is entitled to?
3. It is alleged by the workman that he was engaged by the opposite party on 22.02.13 to perform the work of Safai through contractor Sri Bhupender Singh, and worked continuously till 24.04.13, when he was terminated by opposite party no. 1 in an arbitrary and illegal manner without complying with the provision of section 25F of the Industrial Dispute Act, 1947, in as much as neither any notice, notice pay nor retrenchment compensation was paid to him by the opposite parties, therefore, his termination is in breach of section 25F of the Act

and accordingly he is entitled for reinstatement with full back wages, continuity of service and all consequential benefits.

4. Opposite party no. 2 filed their reply refuting the claim of the workman on a number of grounds *i.e.* that the opposite party no. 2 is not the employer of the worker as defined under section 2(G) of the Act, it is not an industry as defined under section 2(j) of the Act, that there had been an contract between the opposite party no. 1 and 2 and the applicant during the alleged period had worked for a few days only and he had never worked continuously for 240 days, therefore, provisions of Section 25F is not applicable in his case and the claim of the worker is liable to be rejected.
5. It is pertinent to mention here that the opposite party no. 2 had filed reply in this case and has denied the claim of the worker.
6. It is pertinent to mention here that when the case was taken for hearing on 20.05.2015, the attention of the tribunal was invited to the affidavit of the workman paper no. 13/1 in which it is stated by him that he is not interested in contesting the case and has prayed that the case be decided as dismissed. He has also made an endorsement on the order sheet that neither he shall not file any rejoinder nor he is willing to adduce any evidence in the case. Opposite party no. 2 has also made an endorsement on the order sheet that they too have not to adduce any evidence in the case.
7. Considering the facts and circumstances of the case, the present claim of the worker is dismissed as prayed by him and it is held that the worker is not entitled for any relief pursuant to the reference order.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1554.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 2006 का 56) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/20/2006-आई आर (डी यू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (I.D No. 56 of 2006) of the Central Government Industrial Tribunal Cum Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India and their workman, which was received by the Central Government on 21/07/2015.

[No. L-42012/20/2006-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR
Industrial Dispute No. 56 of 2006**

Between—

Sri Ashok Kumar Singh,
Vice President,
Rashtriya Mazdoor Congress (Intuc),
80 Lauries Complex,
Namner Chauraha,
Agra, U.P.

AND

Superintending Archaeologist
Archaeological Survey of India,
Agra Division,
22, Mall Road,
Agra.

AWARD

1. Central Government, Mol, New Delhi, vide notification no. L-42012/20/2006-IR(DU) dated 21.07.06, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Archaeological Survey of India, Agra Circle, 22 Mall Road, Agra in terminating the services of Sri Keshav son of Sri Bajrang, Sri Brij Kishore son of Sri Rajo, Sri Fauram Singh son of Sri Gulab Singh, Sri Ram Dass son of Sri Mani Ram with effect from 01.10.2004, is legal and justified? If not to what relief the concerned four workmen are entitled to?
3. The present case was taken up for hearing on 05.02.15, when the Union raising the present dispute moved an application alleging therein that despite repeated information given to the workmen involved in the case did not turn up, therefore, it appears that the concerned workmen are working somewhere else. Under these circumstances, the union has prayed for closing the case.

4. It is made clear here that none of the parties have adduced their evidence in the case as such opportunity for evidence was closed by the tribunal vide order dated 29.10.12.
5. From the above it is quite evident that the union raising the dispute is not interested to contest the case. It is also evident that it is a case where none of the parties have led their evidence.
6. In view of above the tribunal has left with no option but to decide the reference against the union and in favour of the management holding that the union is not entitled for any relief pursuant to the present reference order.
7. Reference is decided accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1555.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल हाईवे अथॉरिटी ऑफ़ इंडिया एंड आथर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 2011 का 86) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/72/2011-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1555.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 86 of 2011) of the Central Government Industrial Tribunal -cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Highway Authority of India & others and their workman, which was received by the Central Government on 21/07/2015.

[No.L-42012/72/2011-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOR COURT,
KANPUR**

Industrial Dispute No. 86 of 2011

Between—

Sri Bablu Rai, son of Sri Hari Narain Rai,
Village and Post Aura Gaon,
District Azamgarh.

AND

1. The Project Director,
National Highway Authority of India, Hansraj
Colony, Vaihava, Gandhi Nagar, Malviya Road,
Basti.
2. The Project In-charge
M/s. Nagarjun Construction Company Limited, Site
National Highway No. 28, Project-V Village
Sansaripur, Post Bhadwal, Basti.

AWARD

1. Central Government, MoI, New Delhi, vide notification No. L-42012/72/2011-IR (DU) dated 19.09.2011 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of M/s. Nagarjun Construction Company Basti, working under the Principal Employer ship of Project Director National Highway Authority of India, Basti, in terminating the services of Sri Bablu Rai, Grader Operator with effect from 23.05.08 is legal and justified? What relief the workman is entitled to?
3. In the instant case after receipt of reference several notices were issued to the parties concerned workman appeared in the case and filed his statement of claim on 06.03.13 and likewise opposite party no. 2 also filed its objection against the claim filed by the workman.
4. From perusal of the order sheet it appears that representative for the worker is not attending the proceedings of the case and from the side of opposite party his representative is attending the case. Workman after availing of sufficient opportunity in the case did not turn up for his evidence and he also did not file any document in support of his claim.
5. Therefore, it is clear that the workman is not interested to press his claim before the tribunal as such no option is left before the tribunal except to decide the reference against the workman.
6. Accordingly reference is decided against the workman and the workman is not entitled for any relief for want of evidence and proof.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1556.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल थर्मल पावर कारपोरेशन, सोनभद्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट

(संदर्भ संख्या 2011 का 73) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/68/2011-आई आर (डीयू)]

पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1556.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 73/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the NTPC Sonebhadra and their workman, which was received by the Central Government on 21/07/2015.

[No.L-42012/68/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SRI RAM PARKASH, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 73/2011

Between—

1. Sri Sarabjeet Ram,
Son of Sri Shanker Prasad,
Village Bichchi, Post Bichchi,
Robertsganj, District-Sonebhadra.

AND

The General Manager, In-charge,
NTPC, Rihand Nagar Power Project,
Rihand Nagar, District Sonebhadra.

2. The General Manger,
M/s. U B Engineering Limited, Sahyadri Sadan,
Tilak Road, Pune.

AWARD

1. Central Government, Mol, New Delhi, vide notification No. L-42012/68/2011 IR (DU) dated 02.08.2011 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of M/s. U.B. Engineering Limited, Pune, who worked under the Principal Employer-ship of NTPC, Rihand Power Project, Rihand District Sonbhadra, in terminating the services of Sri Sarabjeet Ram, helper with effect from 30.12.90 is legal and justified? What relief the workman is entitled to?
3. In the instant case after exchange of pleadings between the parties, the workman stopped attending the proceedings of the case nor did he appear for

his evidence oral or documentary. Management of NTPC appeared on each and every date before the tribunal in the present proceedings of the case.

4. Therefore, from the conduct of the workman it is amply clear that he is not interested in prosecuting his case.
5. As such the reference is answered against the workman and in favour of the management for want of evidence.
6. Reference is answered accordingly.

RAM PRAKASH, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1557.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार 509 आर्मी बेस वर्कशॉप्स, आगरा कैंट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 2011 का 95) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-14011/05/2011-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1557.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 95 of 2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the 509 Army Base Workshops, Agra Cantt. and their workman, which was received by the Central Government on 21/07/2015.

[No.L-14011/05/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, KANPUR**

Present Sri Shubhendra kumar, HJS

Industrial Dispute No. 95 of 2011.

Between—

There General Secretary,
509 Employee Union
509 ABW Agra.

AND

The Commandant & Managing Director,
509 Army Base Workshops,
Agra Cantt.

AWARD

1. Central Government, Mol, New Delhi, vide notification no. L-114011/05/2011-IR (DU) dated 14.10.2011, has referred the following dispute for adjudication to this tribunal-
2. Whether the action of the management i.e. The Commandant & Managing Director, 509 Army Base Workshop, Agra Cantt. for granting of 2nd ACP to eligible employees of 509 ABW Agra is just and according to Govt. orders (DOPT)? What relief the concerned employees as claimed by the Union are entitled to?
3. In this case after receipt of the reference order from the Ministry several Opportunities were provided to the contesting parties but neither anyone appeared on behalf of the union nor filed their claim.
4. From the perusal of whole record of the case it is clear that even the union raising the dispute on behalf of their workers have not filed any authority letter in the case authorizing any one to represent the caps before the tribunal. Rather the opposite party has filed letter of authority in the case. It is also very much clear that the union has filed repeated application for adjournment in the case but has never moved any application for granting time to file claim statement in the case.
5. Therefore, from the conduct of the Union it is quite apparent that the Union is not interested in prosecuting the present case before the tribunal.
6. Accordingly a no claim award in the case is passed against the union as they are not interested in pressing the present reference before this tribunal for want of pleading and proof.
7. The reference is therefore, answered against the union holding that they are not entitled for any relief pursuant to the present reference order.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 22 जुलाई, 2015

का.आ. 1558.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर क्वालिटी अस्सुराण के स्थापना (स्माल आर्म्स), कानपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 2014 का 112) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-14012/22/2014-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 22nd July, 2015

S.O. 1558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 112 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of the Senior Quality Assurance Establishment (Small Arms), Kanpur and their workman, which was received by the Central Government on 21/07/2015.

[No. L-14012/22/2014-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SRISHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR**

Industrial dispute No. 112 of 2014

Between—

Smt. Kanak Lata Singh,
G/1/T/1138 Armapore Estate,
Post Armapore, Kanpur, U.P.

AND

The Senior Quality Assurance Officer,
Sr. Quality Assurance Estt. (Small Arms)
Armapore, Kanpur. 208009

AWARD

1. Central Government, Mol, New Delh, vide notification No. L-14012/22/2014-IR (DU) dated 16.09.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of SQAQO (SA) in not allowing to join the post to Smt. Kanak Lata Singh, LDC/Record Clerk O/o SQAQO(SA) Kanpur and not paying salary without assigning any reason is just and fair? If not what relief the complainant workman is entitled to?
3. Worker has not filed any claim in response to the issue of notice after receipt of the reference instead worker has moved an application paper no. 6/1, stating that she has already filed OA No. 841/14 before Central Administrative Tribunal, Allahabad, wherein the issue raised in the reference order is also a point of controversy to be decided by Administrative Tribunal, Allahabad.
4. She has further alleged that she does not want to contest the present reference in view of pendency of the same issue before Central Administrative

Tribunal Allahabad, therefore, she has prayed to dismiss the present I.D. Case.

5. Management has filed objection against reference order paper No. 1/1 praying that the reference in question may be dismissed with costs.
6. Here it may be pointed out that tribunal is not clothed with the powers to dismiss the reference order made to it by the appropriate government for decision. If the management is inclined to get reference order dismissed it is open for them to raise the question before appropriate forum but in any case the reference order cannot be dismissed by this tribunal as prayed by the opposite party.
7. Considering above facts this tribunal is of the view that neither this reference can be dismissed as prayed by the management nor the reference can be returned unanswered.
8. As the worker has either filed any pleading nor has adduced any evidence and is not ready to contest the present case on the ground that similar issue is pending before Central Administrative Tribunal, Allahabad.
9. In view of above the present reference is decided against the worker and in favour of the opposite party without granting any relief to the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1559.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जवाहर नवोदय विद्यालय, ग्वालियर के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/164/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/219/98-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/164/99) of the Central Government Industrial Tribunal-cum-Labour-Court, Jabalpur now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of the Jawahar Navodaya Vidyalaya, Gwalior and their workman, which was received by the Central Government on 21/07/2015.

[No. L-42012/219/98-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/164/99

Shri Lakhanlal Kushwah,
Vill. Garhi, PO Sukha Parhi,
Tehsil Dabra,
Distt. Gwalior

.... Workman

Versus

Principal,
Jawahar Navodaya Vidyalaya,
Ministry of Human Resource Development
Govt. of India, Pichore Dabra, Gwalior

.... Management

AWARD

Passed on this 23rd day of June, 2015

1. As per letter dated 16-20/4/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/219/98/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Principal, Jawahar Navodaya Vidyalaya, Gwalior in terminating the services of Shri Lakhanlal Kushwah is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 1/1 to 1/3. Case of workman is that he was appointed as cook by IInd party No. 2 in October, 1994. Workman performed his duties honestly. On 14-2-98, his services were orally terminated without assigning any reasons. Workman further submits that he belongs to backward class. His services are terminated by victimization. He was not served one month's notice neither he was paid one month's pay in lieu of notice. As workman had requested for regularization of his service, IInd party got annoyed and orally terminated him. IInd party did not pay retrenchment compensation. Termination of his service is in violation of Section 25-F.G.H of ID Act. That he completed 240 days continuous service. His services are terminated illegally. On above contentions workman prays for his reinstatement with back wages.
3. IInd party filed Written Statement at Page 5/1 to 5/3 opposing claim of the workman. IInd party

submits that workman was not appointed. Any appointment letter was not received by IInd party. From October, 94, workman was engaged on daily wages as per exigencies. He was paid wages for his working days. On 14-2-98, when teachers told workman to fill drinking water for children, workman misbehaved with them, used unhealthy language. It is reiterated that workman was engaged on daily wages, he was not regularly appointed. Workman was not covered under ID Act. Workman has made false allegations to take undue advantage. Services of workman were not terminated, the allegations of workman are imaginary.

4. Rejoinder is filed by workman at Page 6/1 to 6/3 reiterating his contentions in statement of claim. That his services were terminated without notice. IInd party has not disclosed break in his service. That IInd party had not allowed him on duty. Workman has shown his 243 working days in para 5 of the rejoinder.
5. It is also seen that further Written Statement is filed at Page 17/1 to 17/3. IInd party submits that it is discharging sovereign functions regarding education in school, it is not an industry. IInd party has adopted Civil Service Rules, the reference is not tenable. That cases relating to service matters of Navodaya. Vidyalaya were decided by CAT as per Administrative Tribunal Act, 1995. The notification dated 17-12-98 under section 14(2) provides for transfer of cases to Central Administrative Tribunal *w.e.f.* the date on which jurisdiction is conferred on the Tribunal in relation to any other court/authority. IInd party reiterates that workman has not completed 240 days continuous service. Workman is not entitled to retrenchment compensation.
6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|----------------------|
| (i) Whether the dispute under reference is tenable? | In Affirmative |
| (ii) Whether the action of the management of Principal Jawahar Navodaya Vidyalaya, Gwalior in terminating the services of Shri lakhanlal Kushwah is legal and justified? | In Negative |
| (iii) If not, what relief the workman is entitled to ?" | As per final orders. |

REASONS

7. The terms of reference pertains to legality of termination of services of workman. The reference is made as per order dated 16-4-99 by Government of India, Ministry of Labour. The order of reference is not challenged by IInd party. Ist party workman claimed that he was appointed as cook. Apparently there is no pleading that workman was engaged in discharging of managerial work. Therefore workman is covered under Section 2(s) of ID Act. IInd party has not advanced any argument to substantiate his contentions about bar of jurisdiction of this Tribunal therefore I record my finding in point No.1 in Affirmative.
8. Point No. 2- workman filed affidavit of evidence. He has stated that he was appointed in October, 97 as Mess Cook Helper in IInd party. His services were orally terminated on 14-2-98. In para-3 of his affidavit, workman has shown his working days. That he had completed more than 240 days service, he was not served with notice, retrenchment compensation was not paid to him. From his evidence, documents Exhibit W-1 to W-6 are admitted. In Exhibit W-1, there is reference about action to be taken for appointment of workman on the post of cook. In Exhibit W-2, 3 certificates issued by Mess Incharge, it is shown that workman had worked for 81 days from 1-10-94. In Exhibit W-4, principal has certified that workman was working in the mess from October, 94. Exhibit W-5 is legal notice issued by workman. Exhibit W-6 is copy of reply filed to the legal notice issued by workman denying engagement of workman. The denial in Exhibit W-6 is contrary to the contents of document Exhibit W-2 to W-4.
9. Workman in his cross-examination says that he worked with IInd party from 1994 to 14-2-98. Appointment letter was not given to him. He denies suggestion that he remained absent from work without intimation. Management did not examine any witness to substantiate its contentions that workman abandoned job. Therefore reliance is placed in case of G.T. Lad and other *versus* Chemicals and Fibres of India Ltd. relied by learned counsel for workman Shri N.B. Sharma need no detailed discussion. In cross- examination of workman, there is no suggestion that workman had not completed 240 days continuous service. The engagement of workman by IInd party is corroborated by document Exhibit W-1 to W-4. The evidence of workman about working more than 240 days preceding his termination is not shattered. His services are

terminated without notice, no retrenchment was paid to him. Therefore termination of service of workman is illegal for violation of Section 25-F of ID Act. for above reasons, I record my finding in point No.2 in Negative.

10. Point No.3- In view of my finding in point No. 2 that termination of service of workman is in violation of section 25-F of ID Act, question arises whether workman is entitled for reinstatement with back wages. The evidence on record shows workman worked from 1-10-94 to 14-10-98 for more than 3 years. Workman was not given appointment letter. Considering the period of working, compensation Rs. 75,000 would be appropriate. Accordingly I record my finding I Point No. 3.

11. In the result, award is passed as under:—

- (1) The action of the management of Principal, Jawahar Navodaya Vidyalaya, Gwalior in terminating the services of Shri Lakhanlal Kushwah is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. 75,000 to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1560.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोस्टमास्टर जनरल प्रधान डाकघर, कानपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 2012 का 10) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.07.2015 को प्राप्त हुआ था।

[सं. एल-40011/33/2012-आईआर(डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 10 of 2012) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Post Master General, Head Post Office, Kanpur and their workmen, which was received by the Central Government on 21.07.2015.

[No.L-40011/33/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 10 of 2012

Between

Shri Hardwar Sharma,
Son of Late Phool Chand Sharma,
Resident of D-355 Barra World Bank Colony,
Kanpur

AND

Post Master General,
Head Post Office, Kanpur.

AWARD

1. Central Government, MoI, New Delhi, *vide* notification No. L-40011/33/2012-IR(DU) dated 09.01.2012, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Post Master General, Department of Post, Kanpur, in not according benefits of Group C employee with effect from April, 1987 to Shri Hardwar Sharma, Carpenter, posted in CSD, Kanpur is legal and justified? What relief the workman is entitled?
3. At the outset it may be pointed out here that there appears a major mistake in the statement of claim and is going outside the scope of reference order. To make it clear it may be mentioned here that from the reference order it is crystal clear that denial of benefits of group C employee by the department to the workman with effect from April, 1987, is justified or not whereas the workman in his claim statement has claimed the above benefit with effect from 21.09.87, therefore, the relief claimed by the workman in the present case is outside the reference order. A labour Court, Industrial Tribunal or the National Tribunal, as the case may be, is required not to travel beyond the reference order in terms of sub section (4) of Section 10 of Industrial Disputes Act, 1947, therefore, the relief claimed by the workman in the instant case is misconceived and cannot be entertained at the hands of the tribunal.
4. Be that as it may, the workman has filed his claim statement claiming therein that he is entitled to get the benefit of Group "C" employee being posted as Carpenter and due to arbitrary action on the part of the opposite party he was prevented from the above benefits with effect from 21.09.87.
5. The opposite party has neither filed its reply nor adduced any evidence in the case, therefore, their opportunity to file reply and evidence was closed by the tribunal.

6. The workman has adduced his evidence on affidavit apart from filling certain documents per list dated 22.11.2012, but he was not cross examined by the opposite party as none was present before the tribunal on 17.05.2013, when the case was taken up for hearing therefore, opportunity to cross examine the workman was also closed.
7. Although in the instant case, the evidence of the workman remains uncontroverted still he could not be held entitled for any relief for the defects as pointed out above appearing in his claim statement.
8. As per the notification filed by the workman dated 21.10.87, which is paper No. 5/4, it reveals that by this notification post of carpenter is treated as Group 'C' non gazetted, and if workman so desires, he may make representation before the authorities of the department claiming the relief as is claimed by him before this tribunal, and considering the request of the claimant, the authorities in its wisdom may grant the relief to the workman.
9. For the above discussion, the claim of the workman is not found to be maintainable and accordingly it is held that the workman is not entitled for any relief pursuant to the present reference order.
10. Reference is answered accordingly against the workman and in favour of the management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1561.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आरचीलोजिकल सर्वे ऑफ इंडिया, आगरा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 61/12, 62/12, 63/12, 64/12, 65/12, 66/12, 67/12, 70/12, 71/12, 72/12, 73/12, 74/12, 75/12 और 91/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.07.2015 को प्राप्त हुआ था।

[सं. एल-42012/112/2011-आईआर(डीयू),
सं. एल-42012/113/2011-आईआर(डीयू),
सं. एल-42012/114/2011-आईआर(डीयू),
सं. एल-42012/115/2011-आईआर(डीयू),
सं. एल-42012/116/2011-आईआर(डीयू),
सं. एल-42012/117/2011-आईआर(डीयू),
सं. एल-42012/118/2011-आईआर(डीयू),
सं. एल-42012/119/2011-आईआर(डीयू),
सं. एल-42012/120/2011-आईआर(डीयू),
सं. एल-42012/121/2011-आईआर(डीयू),
सं. एल-42012/122/2011-आईआर(डीयू),

सं. एल-42012/123/2011-आईआर(डीयू),
सं. एल-42012/124/2011-आईआर(डीयू),
सं. एल-42012/19/2012-आईआर(डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1561.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 61/12, 62/12, 63/12, 64/12, 65/12, 66/12, 67/12, 70/12, 71/12, 72/12, 73/12, 74/12, 75/12 & 91/12) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Agra and their workmen, which was received by the Central Government on 21/07/2015.

[No. L-42012/112/2011-IR(DU),
No. L-42012/113/2011-IR(DU),
No. L-42012/114/2011-IR(DU),
No. L-42012/115/2011-IR(DU),
No. L-42012/116/2011-IR(DU),
No. L-42012/117/2011-IR(DU),
No. L-42012/118/2011-IR(DU),
No. L-42012/119/2011-IR(DU),
No. L-42012/120/2011-IR(DU),
No. L-42012/121/2011-IR(DU),
No. L-42012/122/2011-IR(DU),
No. L-42012/123/2011-IR(DU),
No. L-42012/124/2011-IR(DU),
No. L-42012/19/2012-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, KANPUR**

**Industrial Dispute No. 74/12, 72/12, 73/12, 75/12,
61/12, 62/12, 63/12, 64/12, 65/12, 66/12, 67/12,
70/12, 71/12 & 91/12.**

BETWEEN:

S/Shri Satish Yadav, Laxman,
Shri Yogesh, Shri Ram Nath,
Shri Lokendra, Shri Rakesh,
Shri Pankaj, Shri Vimal Kumar,
Shri Srinivas, Shri Hariom,
Shri Komal Singh,
Shri Chail Behari,
Shri Vijendra Singh, &
Shri Shiv Shanker.
All C/o Shri Shishu Pal Singh, 119/449, Darshan Purwa,
Kanpur.

AND

The Superintending Archaeological Chemist,
Archaeological Survey of India,
Northern Zone, Inside Military Gate,
Agra Fort, Agra.

AWARD

1. Central Government, MoI, New Delhi, *vide* Notification No. L-42012/113/115/112/114/2011-IR(DU) dated 20.07.12, *vide* Notification No. L-42012/121/123/124/122/2011-IR(DU) dated 18.07.2012, L-42012/118/117/116/119/120/2011-IR(DU) dated 19.07.2012 and L-42012/19/2012-IR(DU) dated 09.10.2012 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Dy. Superintending Archaeological Chemist, Archaeological Survey of India, Agra, in terminating the services of S/Shri Satish Yadav, Shri Laxman, Shri Yogesh Kumar, Ram Nath, Shri Lokendra, Shri Rakesh, Shri Pankaj, Vimal Kumar, Shri Srinivas, Shri Hariom, Shri Komal Singh, Shri Chail Behari, Shri Vijendra Singh and Shri Shiv Shanker workmen with effect from 15.10.05 is just fair and legal? If not to what relief the workmen concerned is entitled to?
3. It may be pointed out here that as the schedule of reference order is common and the date of termination of the services is also common, therefore, for the sake of brevity instead of mentioning separate schedule as common schedule as above is framed.
4. It is to be noted here that all the above cases have been consolidated by order dated 04.03.12 of this tribunal and Industrial Dispute No. 74 of 12 was made the leading case in which contesting parties evidence has been recorded.
5. In short the case of the workers involved in all the above case is that they had been engaged by the opposite party on 01.12.96 at the post of chemical cleaner on daily rate basis in Tajmahal Agra. All of them have completed 240 days of continuous service in each calendar year. Their services were terminated by the opposite party with effect from 15.10.2006 without assigning any reason and without affording notice. Prior to this termination the opposite party had already terminated their services with effect from 21.02.04 but on the intervention of the Assistant Labour Commissioner (Central), Kanpur, the opposite party informed the said authority *vide* its letter dated 17.11.04 that the opposite party are ready to take back in service the workers involved in the present dispute either on the same department or in some other department. Opposite party has given their consent for taking

back in service all the workers because they have worked more than 240 days of continuous service under the opposite party. It is also pleaded that after 3-4 months of their engagement, the opposite party again dispensed with the services of these workers from 15.10.2006. The opposite party after terminating the services of 27 workers on 15.10.2006, again engaged 30 workers on daily wages from 07.11.2005 at the same place where these workers were working. All the persons engaged on 7.11.2005 were junior to the workers of the present case. It is the claim of the workers that the above action on the part of the opposite party in terminating their service is in breach of Section 25F, 25G and 25H of Industrial Disputes Act, 1947, and accordingly they have prayed that the action of the opposite party be held unjust, unfair and illegal and they be reinstated in the services of the opposite party with full back wages and continuity of service.

6. The opposite party has filed their reply refuting vehemently the case of the workers on a number of grounds. It may be pointed out here that the opposite party has drawn a very lengthy and exhaustive reply running into 129 paragraphs as against the claim petition of the worker running into 10 paragraphs.
7. I may it clear that only those pleadings of the written reply will be dealt with those are necessary for deciding the present reference.
8. It is alleged by the opposite party that the workers involved in the case were never appointed against any sanctioned post, they were never subjected to regular recruitment process, no appointment letters were issued in their name, and their names have never been sponsored from the employment exchange. All the workers involved in the present case have never put in 240 days of continuous service in any of the calendar year what to say preceding 12 calendar months from the date of their alleged termination. As such provisions of Section 25F, 25G and 25H of the Act are not attracted to the facts and circumstances of the case. It is alleged that opposite party takes up short term Time Bound Project Work of casual and intermittent nature of Chemical Preservation of monument and these project work is executed against the approved estimates of different nature requiring the different category of labour for brief spell of time and these projects mainly depend upon the sanctioned conservation plan and availability of funds. It is claimed by the opposite party that the engagement of the workers came to an end by efflux of time on the expiry of the project and that they have never terminated their services in any manner whatsoever. It is also alleged that these workers are trying to seek back door entry in to the services of the

- opposite party by abusing process of law. The workers have invoked the jurisdiction of the Hon'ble High Court, Allahabad, by filing CMWP No. 20677 of 05 praying for a direction to the Assistant Labour Commissioner (Central) Kanpur, to follow the provisions of Section 33 of the Act, which was ultimately dismissed as infructuous *vide* order dated 23.05.06. Some of the workers involved in the present case have also moved before Labour Court, UP Agra, under Section 33-C-2 of the Act, and the said application of the workers were dismissed in default.
9. The workers then filed an OA No. 641 of 2006 before Central Administrative Tribunal Allahabad, which was finally disposed off on 05.09.2008, with a direction to the competent authority to decide the representation of the petitioner by a speaking and reasoned order and the representation under question was finally decided and rejected by the competent authority of the opposite party.
 10. These workers then again filed yet another Original Application No. 1575 of 2010 PSCCW Union *versus* Union of India challenging their termination which was finally decided by order dated 15.11.2010. Being so the matter had attained finality, therefore, the present claim of the workers is barred by principle of Res-Judicata and is liable to be rejected.
 11. Rejoinder has also been filed separately in each of the cases but therein nothing new has been pleaded besides what has been contended in their claim petition by the workers.
 12. The workers have filed 14 documents in the nature of photocopies *vide* list dated 04.03.2013. As against it the opposite party has filed 3 documents *vide* list dated 22.04.13. Out of which document No. 8/2-4 is the certified copy of judgment and order dated 19.10.2010 in OA No. 1575/10 of Central Administrative Tribunal, Allahabad. From the array of parties of OA No. 1575/2010 it is quite obvious that the names of the workers involved is appearing as petitioners before CAT, Allahabad in the above OA.
 13. One Shri Satish Yadav, worker in I.D. No. 74/12 (which is a leading case) has examined him as W.W.1, whereas Shri J.P. Singh has examined himself as M.W.1.
 14. It is pertinent to mention here that workman has not summoned the original documents from the management; therefore, photocopies of the documents filed by the worker cannot be taken as acceptable evidence.
 15. The workers witness in his evidence filed on affidavit has mainly reiterated the same grounds that are mentioned in his claim petition.
 16. W.W. 1 in his cross examination has admitted the fact that he along with others were working as daily rated workers. He has also admitted the fact that the projects on which they were utilized were time bound. Witness has also admitted that no appointment letter was given to them. He never gave any application for his appointment.
 17. Witness has denied the suggestion of the opposite party that their services were came to an end by efflux of time. Their attendance was marked. The witness has also denied the suggestion that neither he nor the other workers involved in the case had not worked continuously for 240 days. It is correct to suggest that he has not filed any document in the court showing that they have worked for 240 days. Witness has also admitted that after termination of his service he filed an application before CAT, Allahabad and the decision of the tribunal is paper No. 8/2. After the decision of CAT, Allahabad, he moved before the department and when department did not come into action he moved before the ALC©, Kanpur and on the basis of the report of the ALC© Kanpur, the present reference is pending in this court.
 18. The management witness in his affidavit has almost asserted the same grounds as were given in the reply of the opposite party. In his cross examination the witness has asserted that on 15.10.2005, services of the workers were not terminated, rather their services were come to an end automatically by efflux of time. He goes on to state that workers involved in the case themselves stopped coming on the place of work. To a specific question that why opposite party did not wait for 2 or 3 days for these workers and why fresh hands were inducted in to the service of the opposite party. To it the witness has specifically replied that it is not the recruitment rather the services of the workers are utilized on need basis and as the work cannot be stopped, therefore, at the time of need whosoever are available they are engaged. Witness has also admitted that no appointment letter was ever given to these workers.
 19. I have heard the arguments of the contesting parties at length and have perused the whole record carefully.
 20. Learned representative for the workers contended that workman Satish Yadav and all other workers were working as daily rated workers from 01.12.96 and their services were terminated without any notice with effect from 15.10.05. They have worked for 240 days continuously in a year. Before this their service were also terminated on 21.02.04, they moved an application before ALC©, Kanpur, where

the management *vide* their letter dated 17.11.2004, submitted that they are willing to take back workers in the service and after taking service for 3 or 4 months their services were again terminated with effected from 15.10.05.

21. Learned counsel of the management has contended that the workmen have not filed any evidence to establish that they had worked for 240 days in a year. It is further contended that services of the workers were never terminated by the opposite party and their services automatically came to an end by efflux of time on completion of project work as they were working on time bound project. It is further contended by the opposite party that after completion of the survey and the test of monument the work of daily rated workers came to an end and this fact was admitted by worker witness Satish Yadav in his cross examination and worker witness has also admitted that he had not filed any evidence to show that either he or any of them have at any point of time worked continuously for 240 days or more. It is further submitted that workman Satish Yadav and other had filed a case against their termination order dt. 15.10.05 before the Central Administrative Tribunal as OA No. 1775/10 PSCCW Union versus Union of India which was decided finally on 15.11.2010. As such present claim of the workers is barred by principle of Res-judicata. This fact is also admitted by worker witness Shri Satish Yadav in his cross examination.
22. After appreciating the materials on record and considering the arguments of the contesting parties, it is proved that these workers were never appointed by the opposite party, these workers were engaged on a project, their services came to an end automatically by efflux of time on completion of project and that they were never terminated by the opposite party and lastly they were never in continuous employment of the opposite party for 240 days nor they filed any evidence to this effect before the court.
23. The learned representative for the opposite party has placed reliance on the case 2007 (112) FLR 152 between Gangadhar Pillai *versus* Siemens Ltd, wherein the Hon'ble Apex Court has held that project employees-appointment of applicant petitioner on temporary basis-for duration of projects/site work and on completion thereof his services used to be terminated. Service availed in various projects in India and in Iraq has worked for more than 2500 days only in Rourkela Steel Plant. His services came to an end on 10.05.2000. There was no unfair labour practice. Project related employees cannot as a matter of right, demand any status and privileges of permanent employees.
24. Considering the principle laid down by the Apex Court, I am of the opinion, that the principle laid down (supra) by Apex Court fully apply to the facts and circumstances of the present. Therefore, the workers involved in the case being engaged on a project cannot claim any status or privilege of regular and permanent employee as matter of right.
25. Similarly opposite party has further placed reliance on the case law reported 2009 (120) FLR 834 C Balachandran and others and State of Kerala, wherein the Hon'ble Apex Court has held that judgment of apex court in Jacob's case had to be read in its entirety and not as a provision of a status-Apex Court in Jacob's case had no occasion to consider the cases of daily wagers appointed against a particular project and whose service had been terminated after project had come to an end. The decision cited as above applies with full swing to the facts and circumstances of the case.
26. Next it was contended by the opposite party that workers have not filed any evidence or proof to show that they had worked for 240 days continuously. On this point the management representative has placed reliance on the law laid down by the Hon'ble Supreme Court of India in the following cases *viz.* 2002 (94) FLR 622, 2004 (109) FLR 1077 and 2006 (110) FLR 552.
27. I have given my due consideration to the facts and circumstances of the case cited above and after considering the proposition of law settled by the Hon'ble Apex Court in the case (supra). It is held that the laws applies with full swing to the facts and circumstances of the present case as it was the burden of the workers to prove that they had worked for 240 days continuously prior to termination of their services and since they have failed to discharged their burden by filing cogent and acceptable evidence in the case, therefore, it is held that they never worked for 240 days continously. As such they cannot be held entitled for the benefit of any of the provisions of the Act like 25F, 25G, & 25H of the Act, as claimed by them.
28. Lastly it has been argued by the representative for the opposite party that the present claim is barred by principle of res-judicata as all the above workers have challenged their respective termination jointly before the Central Administrative Tribunal, Allahabad by filing O.A. No. 1575 of 2010, he had drawn my attention to the judgment and order dated 15.09.2010 of the Tribunal. This document is paper No. 8/2. I have gone through the judgment and order of the Administrative Tribunal and find that the said petition was filed in joint capacity by all the workers involved in the present case and

their names also appear in the body of the judgement. Sri Satish Yadav W.W.1 appearing as witness on behalf of all the workers has also admitted this fact in his evidence before the tribunal. Thus it is fully established that the present case is barred by principle of Res-judicata because the decision of Central Administrative Tribunal has attained finally.

29. The authorized representative for the opposite party has placed reliance on the following case laws reported as below:—

- (a) 2004 (103) FLR 460 (S.C.) in between Executive Engineer ZP Eng. Division and another and Digambara Rao etc. etc.
- (b) 2006 (108) FLR 837, Allahabad High Court, in between SARAT CHANDRA MISHRA AND OTHERS AND STATE OF ORISSA AND OTHERS.

30. I have carefully gone through the rulings cited by the representative of the opposite party. In earlier ruling the Hon'ble Apex Court has held that their plea that they were entitled to continue in service specifically rejected. In that view of the matter, the proceedings initiated before the Labour Court questioning the orders of termination passed against the appellant for their reinstatement with full back wages, in our opinion, was wholly misconceived. Such a plea was barred under the principles of Res-judicat. It is now well settled that the general principle of res-judicat applies to an industrial adjudication.

31. In the later the Hon'ble Allahabad High Court has held that Res-judicata-Proceedings initiated by before the labour Court-clearly barred by the principle of constructive Res-judicata. As the respondent No. 3, whose services were terminated, having got an adverse order in writ petition-cannot re-agitate the issue again before the labour court. It was further held that Doctrine of Election-once the employee has elected to pursue his remedy by filing a writ petition-cannot pursue another remedy before another forum on the same.

32. In another case law 2006 (108) FLR 837 in between Sarat Chandra Mishra and another and State of Orissa and others decided by Hon'ble Supreme Court wherein the Hon'ble Supreme Court has held Res-judicata-Judgement and order of Tribunal has attained finality-Principal of Res-judicata would apply in the instant cases. The judgement and order of the Tribunal dated 09.03.92 passed in OA No. 1200 of 90, thus attained finality. The principle of Res-judicata would therefore, apply in the instant case. The applicability of the principal of

Res-judicata in a proceeding before the Tribunal is not disputed. It is also not a case where the jurisdiction of the tribunal is in question. As the principle of Res-judicata was applicable, the Tribunal had no jurisdiction reopen the issue. This court could not and did not confer a jurisdiction upon the Tribunal which it did not have.

33. As it has already been observed above, that the present workmen had already knocked the doors of the Administrative Tribunal Allahabad challenging their respective termination and when they failed they came before this tribunal for the same cause of action which has already been decided by the Tribunal. Therefore, the principle of law as laid down by the Hon'ble Supreme Court as well as by Hon'ble High Court applies with full swing to the facts and circumstances of the present case. Accordingly it is held that the claim of each worker is barred by principle of Res-judicata.
34. For the reasons discussed above, it is held that none of the worker involved in the instant case is entitled for any relief as claimed by them in their respective reference order. Accordingly reference is decided against each of the worker and in favour of the management.
35. It is further ordered that a copy of this award be placed on the record of each connected files.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1562.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार त्रिवेणी स्ट्रक्चरल लिमिटेड, इलाहाबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 2012 का 102) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/51/2012-आईआर(डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 102 of 2012) of the Central Government Industrial Tribunal-Cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Triveni Structural's Ltd., Allahabad and their workman, which was received by the Central Government on 21.07.2015.

[No.L-42012/51/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,****KANPUR****Industrial Dispute No. 102 of 2012****Between:**

Santosh Kumar,
General Secretary,
Triveni Structural's Karamchari Union,
TSL, Naini, Allahabad.

AND

The Managing Director,
Triveni Structural's Ltd.,
Naini, Allahabad.

AWARD

1. Central Government, MoI, New Delhi, *vide* notification No. L-42012/51/2012-IR(DU) dated 07.12.2012, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Triveni Structurals Ltd., Naini, Allahabad, in suspension of service of Sri Santosh Kumar and re-employment of concerned workman on certain un-reasonable terms and conditions are justified? If not to what relief the workman is entitled for?
3. Case of workman in short is that he is under the employment of the opposite party as skilled worker-III having personnel No. 13190. It is alleged that Nand Lal Singh, Deputy Commandant Security had lodged a NCR under section 323/504 IPC at PS Naini against S.W. Hasan, O.P. Yadav and Santosh Kumar. The workman was issued a show cause notice dated 05.04.2010 by one Sri Surendra Singh, Dy. Manager (Production), whereby the workman was charged that workman at about 4.30 p.m. on 12.10.2009 with some news reporters tried to enter into the factory through main gate whereupon the Deputy Commandant (Security) asked the news reporters to get gate pass. The workman attacked and manhandled with Deputy Commandant and also attacked on the head of the Commandant through a stick as a result of which he sustained serious injuries and blood came out from his head. The workman was directed to reply the show cause notice within three days. Opposite party received the reply on 20.04.2010. Opposite party *vide* communication dt. 26.04.2010 informed the workman that his reply to show cause notice was not found satisfactory and ordered domestic inquiry against the workman on the above charge. Sri Rajesh Kumar Mishra, Advocate was appointed as Enquiry Officer

and Sri Ashok Kumar Dwivedi, Assistant Law Officer as presenting officer. Enquiry officer conducted the inquiry totally ignoring the principles of natural justice inasmuch as before initiation of domestic inquiry he did not inform anything to the workman regarding procedure to be adopted by him to conduct the domestic inquiry, he also did not inform to him that for putting his effective defense workman could bring his defense representative. Enquiry against the rules of natural justice established the charges against the workman, workman was not provided with the copies of statement of management witnesses to enable him to cross examine them effectively, even he was not provided opportunity to cross examine the management witnesses who stated in the inquiry against the workman, the opposite party on the basis of enquiry report dismissed the workman from the service of the opposite party with effect from 24.09.2010, the workman preferred an appeal against order of his dismissal from service under the provisions of Certified Standing Orders requesting therein to reinstate him in the service by setting aside the order of the dismissal, the workman on 20.01.2011 produced letter of Guard Shyam Roop Ram and Requested that he be directed to appear in person before the authorities of the company to clarify the position so that the matter may be reviewed and on 23.09.2011 he appeared before the authorities of the company and confirmed his previous statement, the opposite party sought advice from advocate of High Court and the authorities of the opposite party were advised that by appointing another Inquiry Officer, may get the matter inquired a fresh for finding the correctness of the allegations against the workman, thereupon the workman was informed that it has been decided by the appellate authority to hold enquiry de-novo, the workman *vide* letter dated 19.02.2011 was informed that he is required to appear before the Inquiry Officer Sri B.R. Singh (Retd. Assistant Labour Commissioner) and after concluding the inquiry the Enquiry Officer placed his inquiry report before the opposite party and in his report the Inquiry Officer clearly exonerated the workman of the allegations leveled against him, on the basis of second inquiry report the dismissal order of the workman was withdrawn by the management by order dated 17.03.2011, it is also alleged that the opposite party had reinstated the workman in the service with certain arbitrary conditions which is against law.

4. On the basis of above, it has been prayed by the workman that the action of the management be held illegal and the condition imposed on extraneous and arbitrary considerations be set aside.

5. Despite availing of sufficient opportunity opposing party he did not file any reply against the claim of the workman.
6. Workman apart from filling of document has also filed evidence on affidavit and appeared in the witness box for his examination. As none appeared from the side of the management they were debarred from cross examining the workman.
7. The workman *vide* his application paper No. 3/10 has filed 14 documents which are in the nature of photocopies out of which document no. 14 of the list of documents is very much relevant. It is dated 09.04.2011 whereby the workman was reinstated in service with certain conditions.
8. I have gone through this document carefully and the document reveals that the workman was reinstated in the service of the workman with the conditions *viz.*, 1. He will not be entitled for any amount by way of salary for the period he remained outside the employment, 2. The grade in which he was at the time of his dismissal, he will be placed a grade below the same at the time of his reinstatement, 3. Give an undertaking in writing to behave in good manner in future so that further recourse may be taken and lastly that he will not file any case in future before any competent court of law.
9. I may make it clear that after going through the above conditions imposed in the reinstatement order by the opposite party is highly shockingly and smacks with bias. It is not at all clear that when the workman was exonerated of the charges in the second inquiry by the competent authority, how above conditions could be imposed upon the workman at the time of his reinstatement. Even an ordinary prudent mind may cannot accept action of the management what to say by a competent court of law. At any rate the above conditions cannot be allowed to prevail in the facts and circumstances of the case.
10. Having concluded that the conditions imposed as above is neither legal nor justified in the case of the workman.
11. Accordingly it is held that the action of the management as referred to in the Schedule of reference order is neither just nor proper. Workman will be deemed to be reinstated in the service of the opposite party and he will be entitled for all consequential benefits attached with the post including the pay and allowances for the period he remained out of employment.
12. Reference is answered accordingly in favour of the workman and against the opposite party.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1563.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्माल आर्म्स फैक्ट्री, कानपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 2009 का 38) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-14012/13/2009-आई आर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 38 of 2009) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Small Arms Factory, Kanpur and their workman, which was received by the Central Government on 21/07/2015.

[No. L-14012/13/2009-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR**

Industrial Dispute No. 38 of 2009

Between:

Sri Rajender Prasad Tiwari,
C/o Sri B.P. Pandey,
106/371 Heeraganj,
Kanpur.

AND

The General Manager,
Small Arms Factory,
Kalpi Road, Kanpur.

AWARD

1. Central Government, MoI, New Delhi, *vide* notification No. L-14012/13/2009-IR(DU) dated 17.07.2009, has referred the following dispute for adjudication to this tribunal.
2. Whether the demand of Sri Rajender Prasad Tiwari for his reinstatement in service with effect from 28.04.99 by the management of Small Arms Factory, Kanpur, is legal and justified? If yes, what relief the workman is entitled to?

3. Case of the workman is short is that his father Late Shri Durga Prasad Tiwari, was employed as LDC under the opposite party who died on 17.05.92 in a road accident and at the time of death his age was 53 years. On the written request of the mother of the workman, the workman was provided with the employment by the opposite party in security department on compassionate ground and he was appointed as security guard on 29.03.93. On getting information that the younger brother of the workman is missing and despite best efforts neither he was traceable nor was any clue available about his whereabouts. Looking to the pitiable conditions of the family members, the workman was not able to perform his duties regularly as a result of which his mental condition started deteriorating day by day and he was not able to attend his duties regularly. Due to the mental illness of the workman his in-laws took the workman at their home where the workman started misbehaving with their family members regarding which the matter was reported with PS Armapore Kanpur on 28.3.99, with the request that the workman be get medically examined. With regard to the mental condition of the workman the police authorities also sought information from the authorities of the opposite party and they also confirmed that the mental condition of the workman is not fit and the workman is not in his full sense.
4. The workman in a state of mental disorder and out of sense submitted his resignation from the service on 21.04.99 to the General Manager of the opposite party. On coming to know about this fact the mother of the workman *vide* her letter dated 23.04.99, requested the General Manager, Small Arms Factory, Kanpur, not to accept the resignation of his son from the service of the opposite party. Despite the fact that the mental condition of the workman was not well, workman personally appeared before the authorities of the opposite party on 26.04.99, and again submitted a resignation letter on the same day requesting there in that by all means his resignation should be accepted and his name be struck down from the muster roll of the opposite party. It is further alleged that the in laws of the workman started his mental treatment from a mental doctor at their own cost. Widow mother of the workman also submitted an affidavit before the General Manager of the opposite party on 14.06.99. The wife of the workman has also submitted an affidavit dated 14.06.99 before the General Manager of the opposite party. The General Manager, Small Arms Factory, Kanpur, issued an order No. 974 dated 25.06.99, by means of which the name of the workman had been struck down from the attendance register with effect from 28.04.99.
5. It is further alleged by the workman that Dr. Mahendru who is doctor for mental disease after medically examining him issued a fitness certificate dated 14.07.05. The workman along with fitness certificate appeared before the authorities of the opposite party requested in writing to permit him to resume his duties. The opposite party *vide* order No. SAF/1585 dated 01.02.06 informed the workman that a long period of six years have been elapsed, therefore, at this stage it is not possible for the administration to reinstate the workman in the service of the opposite party.
6. On the basis of above, the workman has prayed that impugned order dated 01.02.06 be declared as illegal and he be treated to be reinstated in the service of the opposite party with effect from 15.07.05, with full wages for the period he remained under medical treatment and continuity of service be also allowed to him.
7. The opposite party has filed their reply in which it is alleged that the present claim of the workman is not maintainable as he is governed by the provisions CCS (CCA) Rules 1965. The workman had submitted an application dated 21.04.99 to the General Manager, Small Arms Factory, Kanpur, in which he had stated that he is resigning on his own willingness and in full sense. As per instructions the workman was called for counseling by the then Security Officer, Small Arms Factory *vide* his letter No. SO/SAF/67 dated 23.04.99 for the purpose of personal hearing and after the counseling Security Officer found him normal in behavior and recommended that his resignation be accepted. After hearing his firm and final decision as confirmed by the workman *vide* his application dated 26.04.99 by requesting to accept his resignation with effect from 28.04.99 without any further correspondence a there was threat to his life resignation was accepted with effect from 28.04.99 and his name was struck off from the strength of the opposite party. The resignation of the workman was accepted by the General Manager of the opposite party and order part-II No. 974 dated 25.05.99 was published and his name was struck off from the strength of the factory with effect from 28.04.99. It is admitted by the opposite party that after the resignation the mother and wife of the workman submitted applications dated 23.04.91 and his wife submitted application on 01.06.99, but of them had submitted any medical certificate in support of their application. It is further alleged by the opposite party that a person, who is mentally instable is not fit for the government service that too in a sensitive department. Both the applications have been suitably replied by the opposite party by stating

that the workman has give his resignation on his own willingness and in full sense and there exist no instructions to provide employment to the near relative of government employee on resignation. It is also alleged by the opposite party that after long gap of more than 6 years the workman submitted an application on 22.11.05 stating that he resigned from the service of the opposite party in abnormal mental condition and requested to reinstate him in the service on the basis medical fitness certificate of Dr. R.K. Mahendroo, MBBS, M.D. dated 14.07.05, which seems to be an afterthought. The procedure of withdrawal of resignation after it has become effective is governed by the statutory provisions in sub-rule (4) to (6) of Rule 26 of the CCS (Pension) Rule 1972, which is applicable only to holders of permanent post and any relaxation of any provision of the above rules will need the concurrence of the Ministry of Personnel Public Grievance and Pension. The resignation of the workman was accepted after due observance of the procedure.

8. On the basis of above pleadings it is prayed that the claim of the workman is devoid of merit and is liable to be rejected.
9. The workman along with his claim petition has filed paper No. 4/8-22, whereas the opposite party with their reply has filed paper Nos. 8/43 to 8/51.
10. Apart from above the workman has examined himself as W.W. 1 and as against him the opposite party has examined Sri S. Chaterjee as M.W.1 in support of their respective cases.
11. I have heard the arguments of the parties at length and have also examined the record of the case carefully.
12. It is not in dispute that the workman was given appointment by the opposite party on compassionate ground and out of his mental disorder he had submitted his resignation from the service of the opposite party. The workman in his evidence has stated that he was appointed under the opposite party on 29.03.93 at the post of Durban on the ground of compassionate appointment after overall consent of his brothers. He stated that during the course of his service he became mad because his younger brother was kidnapped. He goes on to state that due to his mental disorder he resigned from the service on 21.04.99 and regarding his resignation his mother informed the General Manager, Small Arms Factory, Kanpur, in writing and submitted an affidavit not to accept the resignation of the workman but the department accepted the resignation dated 21.04.99 on 28.04.99. He was neither paid any notice nor notice pay at

the time of accepting his resignation. Under which doctor his treatment was going on the same has been informed to the authorities of the opposite party by his mother. He further stated that after being declared fit he reported for his joining with medical fitness certificate. He also admitted the fact that after four or five years he reported for his duties before the opposite party, but the opposite party informed him that he had reported for his duties at belated stage therefore, he cannot be allowed to resume his duties. He was also not aid the amount of his gratuity, leave encashment and group insurance.

13. In his cross-examination witness has admitted that he was given appointment on compassionate ground. It is wrong to suggest that on 21.04.99, he tendered his resignation in his full sense rather his condition was like a mad person. He admitted that Annexure-A to his claim statement is in his hand writing. I have examined Annexure-A which appears to be written not by the workman but someone else and the said document is addressed to PS Armapore. It appears that under some confusion the witness has stated that the paper no. Annexure-A to his claim statement is in his hand writing. Witness further admitted the fact that while submitting his resignation he has not submitted any medical certificate. Witness denied the suggestion that in respect of his resignation the Security Officer has called him. After going through Annexure-B to the reply of the management the witness stated that no such letter was ever give to him. Annexure-B to the reply of the management is dated 23.04.99 alleged to be written by the Security Officer of the opposite party in the name of the workman. From the letter it appears that the Security Officer has counseled the workman not to give his resignation and think over the matter again and reply the same within a week so as to process further course of action in the matter. Witness has further stated that when the letter of the security officer was not received by him then question of calling him by the Security Officer does not arise. Witness has further admitted the fact that his resignation letter was accepted by the General Manager of the opposite party with effect from 28.04.99. In this regard the opposite party has filed Annexure-D with their reply which is a letter dated 25.05.99, written by Deputy General Manager, Small Arms Factory, Kanpur, informing the workman that his resignation has been accepted by the General Manager/Appointing Authority with effect from 28.04.99. It is not in his personal knowledge that his name was strike out from the attendance register on 28.04.99. Witness has admitted the fact that his mother and his wife have given some letters to the opposite party but he is

not aware as to what was written therein. It is correct to say that after 5 or 6 years he has requested for providing service. After going through Annexure-A to the reply of the opposite party the witness has admitted that it is a resignation which is in his hand writing. Annexure-C to the reply of the management is second resignation letter submitted by the workman which is dated 26.04.99, stating therein that by all means his name should be struck down from the attendance register with effect from 28.04.99. Annexure-E and F to the reply of the management are letters written by the mother and wife of the workman.

14. The witness of opposite party M.W.1 in his cross-examination has admitted that he had never supervised the work of the workman directly. He has further admitted the fact that Security Officer is not having any authority or power to appoint any person or to terminate him. Workman was appointed in the year 1993 and he was regular and permanent employee of the opposite party. It is wrong to suggest that the workman was not given any order in writing and the same has been sent to him through registered post. After going through the record he has filed his statement on oath before this tribunal. Witness has admitted that it appears that annexure-E to the reply of the management appears to have been received by the management on which date is entered as 23.04.99. On the request of the mother of the workman he was not referred to any hospital for medical checkup because only on the request of an employee he is sent for his medical checkup. To a specific question that Annexure-D was never served upon the workman by any mode. In reply to this question the witness has admitted that in normal course any correspondence is sent through post but on the request of the workman his resignation was accepted and the workman has never demanded copy of letter dated 25.05.99. Deputy General Manager is competent to serve resignation being Head of Office. There was no necessity for any action on the request of the mother of the workman. The witness has proved the documents Annexure-A to H to the reply of the management.
15. The representative for the workman contended that the workman has submitted his resignation while he was not in sense and was suffering with mental illness and his mother and wife has submitted application before the opposite party intimating that the mental condition of the workman is not in order so his resignation should not be accepted.
16. On the contrary it has been contended by the representative for the opposite party that the workman has submitted his resignation of his own will in a sound mental condition and the same has been rightly accepted by the competent authority.
17. Now the point which arises for consideration is as to whether the workman has submitted his resignation in sound mental state or at the time when he was mentally abnormal.
18. I have considered the pleadings and evidence of the workman and I find that from the initial stage it is the case of the workman that he tendered his resignation when his mental state was quite abnormal and he was not in his full sense. This fact stands proved from his evidence oral as well as documentary. In this regard the workman has filed paper No. 4/12 which is a medical prescription of Dr. R.K. Mahendru MBBS, MD, who is expert of mental disease. This document is dated 13.06.99. The opposite party did not confronted the workman in his cross-examination on the point that this document is forge one or fake document. Even he was not suggested that this document is procured for the purpose of the case. I also find that even the witness of the management has not whispered anything regarding the mental illness of the workman.
19. Therefore, on the basis of evidence documentary as well as oral, I am of the opinion, that the workman tendered his resignation twice while he was suffering from mental illness otherwise in normal course why a person of sound mind would submit his resignation of his own accord. This fact further strengthens from the document paper No. 4/8 annexed with the claim statement of the workman which is dated 14.07.05. It is a fitness certificate issued by Dr. R.K. Mahendru stating therein that after detailed mental status examination and observation during a period of 10 days does not reveal evidence of any psychiatric disturbance. Hence he is declared mentally fit to resume his duties.
20. I do not find any force in the contention of the opposite party that the workman has tendered his resignation willingly and knowingly.
21. Therefore, considering the above circumstances of the case and evidence of the parties it is concluded that the workman has tendered his resignation at such point of time when he was not mentally fit. Moreover in his cross-examination the workman has admitted the fact that he became mad for the reasons detailed in the claim petition and tendered his resignation. Even the opposite party has not filed any document to disbelieve the case of the workman.
22. The representative for the opposite party in support of his contention has relief upon on the following authorities:

- a. 2006 (111) FLR 753 Supreme Court Chandmal Chayal and State of Rajasthan, wherein the Hon'ble Supreme Court has held that resignation can only be withdrawn before its acceptance—Once resignation is accepted there is no jural relationship between the former employer and employee and employee cannot claim for withdrawal of his resignation and reinstatement.
 - b. 2010(124) FLR 968 Allahabad High Court between Anju Devi Maurya *versus* State of U.P. wherein the Hon'ble High Court has held that petitioner is a Rozgar Sewak under the Scheme which does not require acceptance of a resignation—resignation tendered voluntarily not require any acceptance, hence there is no occasion for the petitioner to withdraw her resignation.
 - c. 1992 (64) FLR 972 Nand Keshwar Prasad *versus* Labour Court Allahabad and others wherein the Hon'ble High Court has held that resignation withdrawal of at any time before it became effective would have been available, provided the resignation has not been accepted by the competent authority.
23. With due respect I would like to say that none of the case law are applicable to the facts and circumstances of the present case which is distinguishable on facts and law both. In the instant case it has been found that the workman has tendered his resignation when his mental condition was not well and he had never requested the management not to accept his resignation.
 24. From the above authorities it is clear that once a person has submitted his resignation voluntarily then he has no right to withdraw the same after its acceptance by the competent authority.
 25. On behalf of the workman his representative has relief on ruling of Hon'ble High Court of Jharkhand, 2013 (137) FLR 21 Braja Gopal Ghosh *versus* Central Coal Field Limited and Another, in which the Hon'ble High Court considering the fact that after submission of resignation by petitioner his wife wrote letters informing the Director that her husband is suffering from mental disturbances and therefore his resignation may not be accepted and is undergoing treatment and again sent a letter on 03.10.2003. There is also medical prescription on record that letter that the petitioner was suffering from serious depression psychosis.
 26. The Hon'ble High Court, considering all the facts and circumstances allowed the writ petition filed by the petitioner. Hence, impugned order not accepting the request for withdrawal of resignation are set aside.
 27. The facts of the present case are analogous to the facts of above case and present ruling applies in the instant case. The witness of the management Sri S. Chatterjee MW1 in his cross-examination has accepted that letter of mother of workman was received on 23.04.99 and also admitted that after receiving letter workman was not referred for medical check up on the ground that such request should be made by employee only, therefore, without considering the request of the mother of the workman resignation of the worker was accepted. It was the duty of the employer to refer workman for medical checkup and if it was found that the worker is not suffering from any mental illness then they should have proceeded in the matter for accepting the resignation of the worker. Worker has also filed medical prescription dated 13.06.99, to show that he was under treatment of Dr. R.K. Mahendru and has also made representation dated 22.01.5 to the General Manager with request to review his order of acceptance of resignation and to permit him to resume duty on the basis of medical fitness certificate and attached certificate dated 14.07.05 issued by Dr. R.K. Mahendru stating him to be mentally fit to resume his duties. These all facts are supported by the workman who has examined himself as. W.W.1.
 28. On the basis of above observations, it is held that the action of the management of Small Arms Factory, Kanpur, is not accepting the demand of the workman for his reinstatement is neither legal nor justified. The impugned order dated 25.05.99, passed by Deputy General Manager/Admn. issued for General Manager is liable to be set aside and is hereby set aside.
 29. Now question arises for consideration as to from which date the relief of reinstatement is to be given to the workman. Although from the schedule of reference order it is apparent that the worker has demanded his reinstatement in the service of the employer with effect from 28.04.99, but after overall consideration of the evidence and facts of the case I find that the workman remained under medical treatment for his mental disease and he applied for his reinstatement only on 22.11.2005, therefore, ends of justice would be met if the workman is allowed his reinstatement with effect from 22.11.05 with back wages seniority and all consequential benefits. The period from 21.04.99, the day when he submitted his resignation till 21.11.05, will be regularized as no work no pay but the intervening period of absence from duties will have no adverse effect and should be counted for payment of pension gratuity etc.

30. Therefore, in the above terms the workman is reinstated in service with effect from 22.11.05 with full back wages, seniority and other consequential benefits.

31. Reference is therefore, decided in favour of the worker and against the management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1564.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोस्ट विभाग, आगरा के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 2010 का 69) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.07.2015 को प्राप्त हुआ था।

[सं. एल-40011/2/2010-आईआर(डीयू)]
पी.के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 69 of 2010) of the Central Government Industrial Tribunal-Cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Post, Agra and their workmen, which was received by the Central Government on 21.07.2015.

[No.L-40011/2/2010-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, KANPUR

INDUSTRIAL DISPUTE No. 69 of 2010

BETWEEN:—

Sri Ganga Ram, Through District President,
Rashtriya Mazdoor Congress, 68,
Sector 16, Sikandra, Agra.

AND

Sr. Superintendent of Post Offices,
Department of Post,
Sanjai Place, Agra.

AWARD

1. Central Government, Mol, New Delhi, *vide* notification No. L-40011/2/2010-IR(DU) dated

30.03.2010, has referred the following dispute for adjudication to this tribunal—

- Whether the action of the management of Sr. Post Master, Agra in terminating the services of their workman Sri Ganga Ram *w.e.f* 18.09.08 is legal and justified? If not, what relief the workman is entitled to?
- The case of the workman in short is that he was engaged by the opposite party with effect 05.05.2007 on the basis of letter dated 04.05.2007 as driver. The opposite party took work from the workman up to 17.09.2008 and with effect from 18.09.08, he was illegally removed from the service without showing any reason and without giving any notice, or retrenchment compensation and in his place new person was engaged by the opposite party. He had worked more than 240 days and the opposite party has violated the provisions of section 25F, 25H & 25G of the Act. It is also alleged that the opposite party in their reply dated 20.10.08 under RTI Act, 2005, has clearly admitted that the workman was engaged by the opposite party on daily rate basis. It was also admitted by the opposite party in the said letter that the workman being a daily wager, therefore, no reason is required to be shown to the workman at the time of dispensation of his service.
- Lastly it is pleaded that as the workman has completed more than 240 days of continuous service and as the opposite party had violated the mandatory provision of section 25F, 25H and 25G of the Act, therefore, his dispensation from the service of the opposite party is absolutely illegal and being so the action of opposite party is liable to be set aside and the workman is entitled to be reinstated in the service of the opposite party with full back wages and all consequential benefits.
- The opposite party field their reply in which it is alleged that the opposite party being department of Government of India, therefore, provisions of the Act are not applicable and the reference being misconceived is liable to be dismissed. Government of India has framed its own recruitment rules and those rules are applicable on the opposite party. The claimant has never gone through selection process as such he was never appointed on any post and being so he is not a *bonafide* employee, therefore, he is not entitled for any relief. There never accrued any cause of action in favour of the workman to approach this Tribunal under the provision of the Act. It is admitted by the opposite party that the claimant was engaged on highly intermittent work on daily wage basis. It was also admitted by the opposite party that whenever there was need the workman was engaged as safai

karamchari. The opposite party has denied having appointed new hands after the termination of the services of the workman. It is also stated that the opposite party had ever appointed the workman or had ever terminated the service of the workman; therefore, applicability of the above provisions in the present case does not apply. Lastly it is submitted by the opposite party that there never existed relationship of employer and employee between the opposite party and the workman therefore, the claim of the workman is liable to be dismissed.

6. The workman has filed rejoinder in the case but nothing new has been pleaded except reiterating the facts already pleaded by him in his claim statement.
7. The workman *vide* paper No. 10/1-2 had filed 12 documents relevancy of which will be considered at appropriate stage.
8. Workman besides filing of document has also adduced his oral evidence.
9. Opposite party *vide* application dated 07.05.12 has filed one document which is paper No. 11/2.
10. Opposite party has not filed any documents but have simply adduced oral evidence of Sri Brahmadeo as M.W.1 who is Senior Post Master, Agra.
11. I have heard the arguments of both the sides at length and have carefully perused the whole record of the case.
12. The workman in his evidence has clearly admitted that he was appointed at the post of driver with effect from 5.5.07 and he was given written order by the opposite party. He has filed that order on the record of file. Paper No. 10/3 is appointment letter dated 04.05.07 issued by Sr. Post Master, Agra. At this place I have examined the document and find that it is specifically mentioned that one Bhagwan Das was engaged for delivery of daks but he was not having valid driving license there for he showed his inability to provide the service of driver therefore workman Sri Ganga Ram was engaged as driver on daily rate basis to drive tempo and mail motor. He has also admitted the fact that paper no. 10/9 is a driving license in his name original of which was shown to the opposite party at the time of his evidence. He goes on the state that the opposite party had removed his services orally. He worked more than 240 days of continuous service and that at the time of termination of service neither any notice nor retrenchment compensation was given by the management. He was used to drive Tempo and Tata vehicle by the management.

He used to carry daks in the vehicle. The vehicle which driven by him is still in the office of the opposite party.

13. In his cross examination the witness has stated that opposite party had issued written orders for his engagement. The witness has denied the suggestion put by the management that paper no. 10/3 is not an appointment letter and that he ever worked as a casual labour or have performed scavenging work. The workman remained silent to a question put by the management that in paper no. 9/11 to 9/22 he has been shown as a daily wager and the work which was performed by him he was paid for the same by the department. He after going through the document paper no. 11/1 to 11/2 stated that he had provided the same to the department. He denied the suggestion that he had not completed 240 days of work.
14. Management witness in his examination in chief has stated that the workman worked in the department as daily wage employee and he sometimes worked as driver besides doing the scavenging work. Initially he was paid Rs. 90 per day and thereafter his wage was enhanced at Rs. 100 per day. He was paid only for such days when he performed the work. There is prescribed recruitment rules for appointment of Drivers. He further stated that when the workman was engaged no appointment letter was issued in favour of the workman. Workman submitted paper no. 11/2 to the department. Engagement of the workman was on need basis. He further stated that he had not checked that workman had ever completed 240 days of work. After going through papers no. 9/1 to 9/22 which was filed by the workman, witness stated that those papers are correct. I have also examined the papers and I find that the papers are payment vouchers through which workman was paid his wages.
15. Management witness has further stated that except the papers mentioned above no other papers are present relating to this case. Paper no. 11/29 contains the seal of the department and paper is genuine. With regard to paper no. 10/3 witness has stated that this document pertain to Deoki Nandan whereby he was paid wages for 28 days. He also admitted that paper no. 11/184 to 11/208 are the papers of the department. By going through the above papers witness has stated that it cannot be said that workman forged his signature and could file the same in the case. The above papers are available in the department. Relating to paper no. 10/3 witness has admitted the fact that paper contains seal of the department but expressed his ignorance to state as to which officer had signed the document.

Witness reiterated that on 18.09.2008 workman was not removed from the service.

16. In his cross examination witness has stated that he had come to give his evidence on the basis of record. He could not say how many light motor vehicles and how many heavy motor vehicle are in the department. He admitted that there are several vehicles in the department through which distribution of dak is done. He stated that speed post delivery is done only once in a day and work of this nature is done daily. The work is of permanent nature. By going through paper no. 11/1 to 11/324 witness admitted that these are delivery receipts. On examination of these papers it is quite evident that it is for the period 19.09.07 to 16.09.08. He further admitted that dak delivery work was done by workman Ganga Ram. Witness goes on to admit the document paper no. 10/3 by stating that this document is of his department. Witness denied the suggestion as to from what date workman was utilized as driver and he cannot state exact date but possibility cannot be ruled out that after this letter the work of driver might have taken from the workman. He admitted the document paper no. 10/4 and stated that it is the document of the department.
17. Management witness in his cross has admitted that document no. 11/1 to 11/324 are sheets of dak receipts through which daks were delivered by workman and also bears the signatures in token of having received mails and dak. He further admitted that these daks were delivered by workman Sri Ganga Ram. The delivery sheets are retained in the department for one year but at present it is retained only for six months. No muster roll is prepared nor workman was asked to sign the attendance register and only for the purpose of making payment name is noted on separate paper. Witness has further denied the suggestion that on 18.09.08 any new hand as driver was engaged by the department and at that time both tempos were present in the department. He stated that workman was paid his wages some times weekly or some times after 15 days. It is wrong to say that workman at any point of time was removed from the service of the department orally or otherwise.
18. Workers authorized representative while addressing the court has drawn the attention of the court to document no. 10/3 submitting that it is a letter issued by Senior Post Master Agra appointing the workman as driver in the department for distributing the mails and daks to the different post offices.
19. The representative for the opposite party asserted that the workman was never appointed as driver

and that for recruitment of drivers department is having recruitment rules and that the workman was never subjected for selection at the post of driver, therefore, there exist no relationship of master and servant between the opposite party and workman.

20. In this context I have examined the whole documents and find force in the arguments of the representative for the workman. By a bare perusal of document paper no. 10/3 it is crystal clear that workman was engaged as driver to distribute mail and daks. Apart from the above, document no. 10/4 is a curfew pass issued by the opposite party in favor of workman clearly mentioning that the workman is working as driver in the department. Paper no. 10/9 and 10/10 are the driving license of the workman, paper no. 10/1 is the reply filed by the department before Dy. Chief Lab or Commissioner (Central), Kanpur, wherein it has clearly been admitted by the opposite party had engaged workman as daily wage and since he is also knowing driving so sometimes work of driving the vehicle was also taken from the workman. Document paper nos. 10/2 to 10/8 is payment sheet prepared by the department which also includes the name of the workman.
21. After giving my anxious consideration to the documentary as well as oral evidence WW. 1 and MW. 1, I am unable to accept the arguments of the opposite party that neither the workman was engaged by the department nor there existed relationship of employer and employee between the opposite party and the workman. There is overwhelming evidence on record from the side of the workman to show that he was engaged by the department by order in writing and that he was paid his wages monthly basis for the work which was performed by him and also that he had completed much more than 240 days preceding 12 calendar months from the date of his termination.
22. Therefore, it is held that the workman was engaged by the opposite party and by no stretch of imagination it can be accepted, as argued by the opposite party that they never engaged the workman.
23. It has been next argued by the representative for the workman that the workman had worked for 240 days and more preceding 12 calendar months from the date of termination therefore, workman is entitled for the protection of section 25F of industrial Disputes Act, as neither any notice nor notice pay in lieu of retrenchment compensation was offered to the workman by the opposite party at the time of termination of the service of the workman. The fact that the workman had worked for 240 days and more, preceding 12 calendar

months is established from the oral evidence of the workman as also from documentary evidence paper no. 9/1 to 9/22 as also from document no. 11/1 to 11/324.

24. As per contra it has been submitted by the representative for the opposite party that they have never terminated the service of the workman at any point of time so question for making compliance of section 25F of the Act is not mandatory in the case of the workman.
25. I have considered the arguments of the parties and find that the arguments of the management is not acceptable as it is admitted by the witness of the opposite party that the workman was engaged as driver *vide* document no. 10/3 and when this fact of his engagement is admitted by the witness of the management then no other opinion is possible except to held that the workman was in the employment of the opposite party as driver. From the evidence of the workman it is quite clear that neither he was neither given any notice nor notice pay in lieu of retrenchment compensation at the time of his disengagement by the department therefore, provisions of section 25F of the automatically would come into play rendering the disengagement as illegal and in operative in the eye of law. As such arguments of the opposite party cannot be accepted and it is held that the action of the management shown in the reference order is held bad in law.
26. The representative for the workman has cited case laws *viz.*, 2014 AIR SCW 3157 Supreme Court, 2010 (125) FLR 629, (2010) 2 SCC (L&S) 63, (2007) 1 SCC (L&S) 961, 2005 (105) FLR 383, 1999 lab IC 1125, and 2002 (93) FLR 79 Rajasthan High Court in support of his case and submitted that the workman is entitled for his reinstatement with full back wages and all consequential benefits.
27. I have gone through the case laws cited by the workman and find that judgments of the Hon'ble Apex Court and Hon'ble High Court applies to the facts and circumstances of the present case with full swing.
28. Representative for the opposite party has also placed reliance on case laws of Hon'ble Apex Court in the case of The Range Forest Officer and Hadmani, 2002 (93) FLR (79) in which it has been held by the Hon'ble Apex Court that onus to prove that respondent has worked for more than 240 days is not on management—claimant has to lead evidence to show that he has worked for 240 days, filing of an affidavit is not sufficient. As discussed above that the workman has successfully proved his case that he had worked for more than 240 days

in 12 calendar months preceding the date of his termination therefore, the law cited by the opposite party instead of helping to the case of the management supports the case of the workman. Being so management could not take any advantage of the law cited by it.

29. Similarly case cited by the management of Hon'ble Allahabad High Court, reported 2013 (137) FLR has no application in the present case as the workman has proved the fact from his evidence oral as well as documentary that he was in the direct employment of the opposite party. As such the decision of Hon'ble Allahabad is distinguishable on facts and law both therefore, cannot be made applicable to the facts and circumstances of the present case.
30. No other point has been pressed by the contesting parties in the present case.
31. Therefore, for the reasons given above, it is held that the action of the management of Senior Post Master, Agra, in terminating the services of their workman Sri Ganga Ram with effect from 18.09.2008 is neither legal nor justified. Accordingly the workman is held entitled for reinstatement in the service of the management with full back wages and consequential benefits. Reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 23 जुलाई, 2015

का.आ. 1565.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूर संचार विभाग लखनऊ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 85/99) प्रकाशित करती है जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40012/101/98-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd July, 2015

S.O. 1565.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 85/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Door Sanchar Vibhag, Lucknow and their workman, which was received by the Central Government on 21/07/2015.

[No. L-40012/101/98-IR(DU)]

P. K. VENUGOPAL Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, KANPUR**

Industrial Dispute No. 85/99

Rakesh Kumar Dubey,
Son of Sri Shiv Nath Dubey,
C/o Sri R.M. Shukla,
119/30 Naseemabad,
Himanchal Talkies,
Kanpur. 208001.

AND

The Chief General Manager
Door Sanchar Vibhag,
Lucknow.

AWARD

1. Central Government, Mol, New Delhi, *vide* notification No. L-40012/101/98/IR (DU) dated 23.04.99, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the Door Sanchar Vibhag in terminating the services of Sh. Rakesh Kumar Dubey is legal and justified? If not to what relief the workman is entitled?
3. The exchequer case history of the present dispute is that in this case first award was recorded by the tribunal on 25.01.2001 in favour of the workman which was challenged by the opposite party before the Hon'ble High Court, Allahabad in CMWP No. 39466 of 2001 and the said writ petition was finally decided *vide* order dated 24.02.2004 wherein the award of the tribunal was set aside and the case was remitted back to the tribunal for deciding the same a fresh.
4. After remand of the case the tribunal again recorded its award on 28.12.06, in favor of the workman which was again agitated by the opposite party before the Hon'ble High Court Allahabad, in CMW© No. 29260 of 07. The said writ petition was further decided by the Hon'ble High Court on 21.01.2011 and the case was again remitted back to this tribunal by setting aside the order of the tribunal for deciding the case a fresh.
5. After remand of the case the tribunal again recorded its award on 13.10.11 against the workman holding that the date of termination has not been mentioned in the reference order which is fatal and cannot be cured while adjudicating the reference order and accordingly the reference was decided against the workman by the tribunal. The workman being aggrieved by the aforesaid award of this tribunal

preferred writ petition No. 65278/12, before the Hon'ble High Court, Allahabad, which was decided *vide* order dated 18.12.2012 with the direction that in case petitioner moves an application for amendment before the appropriate government and if amendment is granted the tribunal may dispose of reference expeditiously.

6. From the records of the case it reveals that the worker in the light of the order of the Hon'ble High Court, Allahabad passed 18.12.2012, moved an application before the appropriate government seeking amendment in the reference order which was allowed considering the directions of the Hon'ble High Court, Allahabad, by the appropriate government and the appropriate government *vide* corrigendum dated 17.05.2012 added the date of termination of the services of the workman as 09.03.88, therefore, now the reference order should be read as under—

Whether the action of the Door Sanchar Vibhag in terminating the services of Sh. Rakesh Kumar Dubey with effect from 09.03.88 is legal and justified? If not to what relief the workman is entitled?

7. It may be pointed out here that after the amendment in the reference order the workman and the opposite party have filed their amended claim and amended written statement in the case.
8. It is pertinent to point out here that prior to amendment in the reference order, the worker has filed his claim petition alleging therein that he was appointed at the post of Jeep Driver on 11.11.96 by the opposite party and he worked continuously till 08.03.88 without break in service under SDO, Doorsanchar, Manipuri. His work and conduct was always found satisfactory the post against which he was appointed is still in existence and that he was appointed against regular and permanent post. The workman was deprived of his work by the opposite party with effect from 09.03.88 without any rhyme and reason termination of his service was without any written order or without giving him any notice, notice pay or retrenchment compensation was illegal. He was appointed on casual basis and was paid Rs. 19.50 paisa per day a wages and he completed for more than 240 days in a calendar year before the date of his termination, therefore, his termination from service is violative of the provisions of section 25F of the Act is therefore, illegal and he is entitled to be reinstated in service with full back wages.
9. Needless to mention that award dated 25.01.2001 was an ex-parte award as the management had not filed its reply in the case. Whereas the opposite

party has filed its reply second time when the case was remitted back to this tribunal alleging therein that no relationship of employer and employee exists between the employer and the applicant and that he was never appointed as claimed by him. The opposite party had denied the alleged engagement of the applicant as Driver on 11.11.86. It has been denied by the management that the claimant continued continuously up to 08.03.88 and on the basis of above grounds it has been prayed that the claim of the workman is liable to be rejected and the workman is not entitled for any relief.

10. It is further pointed out here that second time after the evidence of the worker was closed the tribunal granted repeated opportunities to the management *i.e.* on 14.12.2006, 02.05.2006, 25.07.2006, 09.10.2006 and lastly on 07.12.2006, but the management neither adduced any documentary evidence nor oral evidence in the case as a resultant effect that the case was decided by the tribunal against the opposite party for want of adequate evidence in the case.
11. The aforesaid award of the tribunal was set aside by the Hon'ble High Court and the case was remitted back to the tribunal for deciding the same, but the tribunal third time decided the award against the workman simply on the ground that since no date of termination is mentioned in the reference order, therefore, the reference order is vague and on this basis workman cannot be held to be entitled for any relief.
12. Thereafter the worker has assailed the award of the tribunal before the Hon'ble High Court, Allahabad, by filing writ petition and the Hon'ble High Court decided the reference observing that if the worker approaches the appropriate government for amendment in the reference order and if his request is accepted by the appropriate government and reference is amended, the tribunal should decide the reference expeditiously.
13. After the reference was amended by the appropriate government *vide* corrigendum dated 17.05.2013, the management sought permission *vide* application dated 08.11.2013, stating therein that considering the change in the reference order it would be just fair and reasonable to allow them to file additional written statement and the said application of the opposite party was allowed by the tribunal *vide* order dated 21.11.13, and the additional written statement filed by the opposite party on 08.11.2013 was taken on record.
14. The management in its additional written statement has pleaded that the workman was never employed nor appointed as Jeep Driver with effect 11.11.86

by any authority of the opposite party, management had never issued any appointment letter or order to the applicant on the post of Jeep Driver or on any other post, management had never paid any salary and there never existed any relationship of employer and employee between the parties. The workman had never held any post under the opposite party and he had never worked continuously against any regular or permanent post. He was never paid wages at Rs. 19.50 per day as appointment of casual worker was completely banned under the opposite party with effect from 1985, therefore, there could not be any appointment under the opposite party. The opposite party further pleaded that since the worker was never appointed by them against any post therefore question of termination of his service with effect from 09.03.88 as mentioned in the reference order does not arise.

15. On merit of the case it has been stated by the opposite party that the services of the worker were never governed by the rules of the management. The appointment of workers is governed by recruitment rules of the opposite party. The name of the worker was never sponsored by the employment exchange and that the workman is trying to seek back door entry in the service of the opposite party. Lastly it is alleged that it is not an industrial dispute, therefore, the reference is bad in law and therefore, the relief claimed by the worker is liable to be rejected.
16. The workman against the additional written statement filed by the management filed rejoinder in which nothing new has been pleaded except reiterating the facts already pleaded by the worker in his claim petition.
17. Although on 04.10.05, the workman appeared before the tribunal with his representative and submitted that he has to adduce no further evidence and the evidence already adduced by workman be considered and the same was considered by the tribunal in its award dated 28.12.2006 which was set aside by the Hon'ble High Court, and the contesting parties were given opportunities for adducing their respective evidence in support of their respective claim.
18. On 11.11.2014, the representative for the workman made an endorsement on the order sheet to the effect that the workman has already produced his evidence. No fresh evidence shall be submitted/produced on behalf of the workman.
19. The workman in support of his claim *vide* application paper no. 38/1 has filed 10 documents most of them are the experience certificate issued by the officers of the opposite party and health

- fitness certificate. The workman again *vide* application dated 10.05.2011 which is paper no. 45/1 filed 17 documents most of them are the carbon copies of the representations addressed to the officers of the opposite party and order of the Department of Telecommunication of date 02.04.2004 along with annexure. Relevanc of these documents will be examined and dealt with at the appropriate stage.
20. Opposite party *vide* application dated 04.03.11 paper no. 34/3 has filed photocopy of judgment dated 18.07.95 of Consumer Forum Mainpuri in case no. 197/94, photocopy of application dated 04.05.94 filed by the worker before Consumer Forum and photocopy of judgment dated 07.12.99 of Consumer Forum passed in case no. 168 of 94.
 21. Shri Rakesh Kumar Dubey appeared in the witness box as w.w.1 and stated on oath that appointed on the post of Driver on 11.11.86 as daily wager and continuously worked on that post till 08.03.88 and he was never issued any charge sheet and his superiors were satisfied from his working. No notice, notice pay or retrenchment compensation was ever offered to him before termination of his service. He has stated that he has filed documents in support of his claim. SDO after giving him experience certificate stopped taking from him. Witness has denied the suggestion of the opposite party that he had not worked continuously for 240 days. Witness has expressed his ignorance as to whether SDO is competent or not to appoint any person. Witness has further stated that he does not know English and the officer concerned, after getting typed the experience certificates, had given him. It is wrong to suggest that either experience certificates are fake or procured one. He admitted the fact that he had filed a case before the consumer forum and also admitted that he was allowed compensation by the forum to the tune of Rs. 100000/- for sustaining injury in a road accident and not for any disability in his body. To a question put by the court, the witness stated that he is complete fit to drive vehicle.
 22. Workman has also examined one more witness by name Shri Om Prakash Mishra as W.W.2 who in his chief has admitted that he was appointed June 57 and remained posted at different post till 1996.
 23. The opposite party in support of their claim filed affidavit of one Shri Ram Saran and examined himself as M.W.1.
 24. I have heard the arguments of the parties at length and have carefully considered the documents and evidence of the parties available on record.
 25. Representative for the workman has contended that the workman was engaged as driver under the opposite party and has worked from 11.11.86 to 08.03.88 continuously for more than 240 days in a year preceding 12 calendar months from the date of his termination and his services were terminated with effect from 09.03.88, without any notice, notice pay or payment of retrenchment compensation, therefore, he is entitled for his reinstatement in service with full back wages and consequential benefits.
 26. Representative for the management contended that the workman was never appointed or posted as Jeep Driver under the opposite party. He has not filed any documents to prove his contentions nor has filed any proof that he was being paid any amount as wages during the alleged period. He has only filed experience certificates which are forged and procured documents and cannot be believed.
 27. Representative for the management has also contended that the workman failed to prove that he has worked for 240 days continuously preceding 12 calendar months from the date of his termination and burden lies upon him to prove this fact. He has relied upon on the following authorities on this point—
 - (a) 2002 (94) FLR 622. S.C. Range Forest Officer *versus* S.T. Hadimani.
 - (b) 2003 (96) FLR 492 S.C. UP Awas Vikas Parishad *vs* Kanak & others.
 - (c) 2006 (110) FLR 1212 S.C. Bhagya Jala Nigam Ltd., *vs* Mohd. Rafi.
 - (d) 2005 (105) FLR 383 S.C. Bank of Baroda *vs* Gheemer Bhai Harjibhai Lavare.
 - (e) 1981 (29) FLR 194 Allahabad High Court, V.K. Raj Industries *vs* Labour.
 28. On perusal of records it appears that the worker has filed photocopies of experience certificates issued by the SDO Mainpuri, which are paper no. 4/7-4/14 and also filed the original of these documents which are 8 in numbers and are marked as paper no. 38/2 to 38/5. By a bare perusal of these experience certificates period of working of the workman as mentioned in these certificates appears to be 11.11.86 to 11.12.86, 13.12.86 to 12.01.87, 13.01.87 to 12.02.87, 13.02.87 to 12.03.87, 13.03.87 to 12.04.87, 13.04.87 to 18.05.87, 19.05.87 to 12.06.87, and 13.06.87 to 08.03.88. It shows period of continuous working as mentioned is from 11.06.86 to 08.03.88. The experience certificates are not admitted by the opposite party and its witness Shri Ram Saran M.W.1 in his cross-examination says that these certificates are fake and forged. Worker

- as W.W.1 has denied the suggestion that these certificates are forged. In his evidence the witness has alleged that he was appointed on 11.11.86 as driver and on 08.03.88 S.D.O. Shri A.K. Singh asked him not to come on his duties. He was not given any notice or retrenchment compensation at the time of his termination. He has proved experience certificates. In his cross examination he stated that he was appointed by S.D.O. Mainpuri and was given appointment letter and has further stated that he has filed experience certificate and is treating these certificates as appointment letter. In his claim he has mentioned that he was being paid wages as Rs. 19.50 paise per day. He has also admitted the fact that he was working as daily wager. He has denied the suggestion of the management that he has not worked continuously for 240 days.
29. In support of his contention the worker has examined one Shri Om Prakash Mishra as M.W.2 who remained posted under the opposite party at Mainpuri from 1986 to 1988. In his evidence he alleges to be an employee of the opposite party from 1957 to 1996. He also says that during his posting at Mainpuri, SDO Shri Sharma was there and thereafter Shri A.K. Singh joined as SDO Telegraph in between Shri S.P. Agnihotri and Shri Sharma, who also remained posted there. He has proved the signature of Shri Sharma on paper no. 4/7 to 4/12 and also proved the signature of Shri A.K. Singh on paper no. 4/14. He also stated that the workman was driving the Jeep of the department at that time. In his cross examination he said that he has no knowledge whether any appointment letter was given to the worker or not. He has seen the worker driving the Jeep of the Department. He has also no knowledge that jeep Driver was daily rated or casual worker. He has also admitted that these experience certificates have not been issued on the letter head of the department and no dispatch number is mentioned in these certificates. In this regard he further stated that usually experience certificates are issued without any dispatch and file number. He also says that he has seen driving the jeep by the worker for the period given in the experience certificates.
 30. The evidence of W.W.2 Shri Om Prakash Mishra is very much relevant because he was posted in the department during the period the worker was working there. As he was posted there he is the best person to know working of department and about the persons who were employed there and the SDO's who issued the experience certificates to the worker. Therefore, the evidence of W.W.2 cannot be disbelieved especially when the management failed to rebut his testimony by leading any cogent evidence.
 31. Management has examined Shri Ram Saran aged about 44 year as M.W.1 who is SDO Mainpuri to rebut the evidence of worker and his witness who could not have any knowledge regarding working and workers of the department for the period mentioned in experience certificates as he was not in service of the department in that period. In his cross examination he says that he has no knowledge about holding of any jeep by the department in the year 1986 as he was not in service. He was appointed in 1984, and transferred to Mainpuri. He stated that department might have in possession of some jeep in 1986, but who was driving the same he has no knowledge. He has searched for the attendance register and payment vouchers for the period 1986 to 88 but they were not available and he also did not know as to what happened to these documents. He has heard the name of Sri A. K. Singh posted there. He could gather that some person by name Umesh was driving the jeep who died in 1986. As the records are not available he cannot say when the records were destroyed. He has no knowledge as to who was the appointing authority during the period 1986 to 88. He stated that experience certificates are forged. He also alleged that log book of the jeep for that period is also not available in the department. In his cross examination he has not completely denied the right of worker as he says he has no knowledge that during the period 1985 to 1988 the jeep was being driven by Sri Rakesh Kumar Dubey the concerned worker or not.
 32. Therefore, the evidence of M.W. 1 is of no help to the case of the management as he has no knowledge of facts of the case or the persons engaged at the relevant period in the department, he has given his evidence without perusing any document of the department and his evidence is based on conjectures and surmises and lastly he did not deny the fact that worker was driver of jeep.
 33. Authorized representative for the worker relied on the authority of Hon'ble Supreme Court in the case of Bhavnagar Municipal Corporation versus Jadeja reported in 2015 (144) FLR 177, where in the labour court has placed reliance upon xerox copies of certificates issued by an officer of the management stating that worker was in employment of management as conductor between 30.10.87 to 30.03.89 and the signatures of officers issuing certificates was proved by another officer when seen in the light of assertion of the workers, the certificate in question clearly support the case of worker that he was in employment for the period mentioned and had rendered continuous service for 240 days.

34. The case law cited by the worker is fully applicable in the present case as the experience certificate filed by the worker has been proved by WW.2 and the department has not produced any cogent evidence to disbelieve the evidence of W.W.2. The department has not even dared to produce SDOs of department who have issued the said certificates. The department has also failed to produce attendance register or register of payment to their employees for the relevant period nor department has adduced any chit of evidence to rebut the claim of worker. The witness examined by the department has no evidentiary value as he has no knowledge of the facts of the case and has deposed without any perusal of the documents.
35. Worker has admitted in his evidence that he was being paid his wages @ Rs. 19.50 paise as he was working as daily rated worker. His representative has cited as case law of Hon'ble Apex Court 2011 (130) FLR page 337 Devender Singh versus Municipal Council Sonapur, wherein the Hon'ble Apex Court has held that section 2(s) contains an exhaustive definition of the term workman. It is also held that the source of employment, the method of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/pay and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of section 2 (s) of the Act.
36. In another unreported case law of Hon'ble Apex Court in Civil Appeal No. 11525 of 2014, State of U.P. versus Parmanand Shukla (dead) through LRs in which the Hon'ble Apex Court has granted Jump sum amount of Rs. 10,00,000/- to LR's of Parmanand Shukla who was working as daily wagger as his working was found from 1986 to 2000 as daily rated worker.
37. Therefore, from the above observations and authorities placed by the representative for the workman, it is concluded that the workman has proved his case that he worked continuously with effect from 11.11.86 to 08.03.86 as Jeep Driver and that at the time of termination of his services neither he was given any notice, notice pay nor retrenchment compensation, therefore, it is held that the termination of the services of the workman with effect from 09.03.88 by the opposite party is neither just, legal nor fair. The workman is held entitled for reinstatement in the service of the department with effect from 09.03.88 with full back wages, continuity of service and with all consequential benefits.
38. Reference is therefore, answered in favour of the workman and against the opposite party.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 24 जुलाई, 2015

का.आ. 1566.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 47/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/07/2015 को प्राप्त हुआ था।

[सं. एल-20012/33/2011-आई. आर. (सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2015

S.O. 1566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/S. BCCL and their workmen, received by the Central Government on 24/07/2015.

[No. L-20012/33/2011-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

IN THE MATTER OF REFERENCE U/S 10(1) (D) (2A) OF I.D. ACT. 1947

REFERENCE NO. 47 OF 2011

Employer in relation to the management of P.B. Area of M/S. BCCL

AND

Their workman

Present : SRI R.K. SARAN,

Presiding Officer.

APPEARANCES:

for the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri S.C. Gour, Advocate

State - Jharkhand. Industry : Coal

Dated 10/6/2015

AWARD

By Order No. L- 20012/33/2011 IR-(C-1) dated, 02/09/2011 the Central Govt. in the Ministry of Labour has,

In exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of P.B. Project of M/s. BCCL in not providing employment to Sri Ganesh Bhuia dependent son of Late Rameshwar Bhuia is justified ? To what relief the workman concerned is entitled to?"

2. The case is received from the Ministry of Labour on 12.09.2011. After receipt of reference, both parties are noticed, the workman filed their written statement on 14.10.2011. The management also filed written statement-cum-rejoinder on 02.05.2013. One witness each examined by both side on their behalf. Document of workman marked as Ext. W-1 to W-4.
3. The short point to be decided in this reference is the deceased workman's dependent son who applied for job is entitled for job or not.
4. The management though admitted that though the claim of the workman is genuine, since he has applied for job 18 months after the death of this father, his claim has been refused.
5. But after the death of an earning member, the uneducated dependant have no way except darkness and emptiness, to get all papers and for applying with proper Proforma is not possible.
6. More over NCWA gives right to the dependent to get a job and that be given after observing all formalities waiving the technical barriers.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 24 जुलाई, 2015

का.आ. 1567.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 87/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/07/2015 को प्राप्त हुआ था।

[सं. एल-20012/91/1992-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2015

S.O. 1567.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 87/1993 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 24/07/2015.

[No. L-20012/91/1992 - IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT NO. 1, DHANBAD

IN THE MATTER OF REFERENCE U/S 10 (1) (D) (2A) OF I.D. ACT. 1947

REF. NO. 87 OF 1993

Employer in relation to the management of C.V Area, M/s BCCL,

AND

Their workmen.

Present: Sri Ranjan Kumar Saran,
Presiding Officer.

APPEARANCES:

For the Employers	: None
For the workman	: None
State	: Jharkhand.
Industry	: Coal

Dated: 01/05/2015

AWARD

By order No.L-20012/91/92-IR (C-1), dated 07/04/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/S Bharat Coking Coal Limited, C.V Area No. X11 in relation to their Basantimata Colliery in denying Conversion from PR & TR and regularization of Shri Pujari Bilaspuria and 50 others (as per list enclosed) is justified? if not, to what relief the workman concerned are entitled to?"

Annexure

List of workman of Basanti Mata colliary

Sl. No.	Name	Designation	B/Form No.	Presently Working as	Place of Posting	Working in TR Since
1	2	3	4	5	6	7
1	Pujari Bilaspurja	Stacker/Loader	161	Gen. Maz.	Basanti Mata	1986
2	Darasram Bilaspuria	-do-	437	-do-	-do-	1986
3	Bhaiaram Bilaspuria	-do-	263	-do-	-do-	1986
4	Sukhiram Bilaspuria	-do-	463	-do-	-do-	1986
5	Nandu Bilaspuria	-do-	478	-do-	-do-	1986
6	Bidya Dhar Nayak	-do-	270	-do-	-do-	1986
7	Chungi Lal Ray	-do-	250	-do-	-do-	1986
8	Gurubarna Bilaspuria	-do-	440	-do-	-do-	1986
9	Nani Bai Bilaspuria	-do-	231	-do-	-do-	1986
10	Sonamoni Mejhan	-do-	465	-do-	-do-	1986
11	Lilamani Mejhan	-do-	537	-do-	-do-	1986
12	Abala Roy	-do-	408	-do-	-do-	1986
13	Ani Muthi	-do-	489	-do-	-do-	1986
14	Gandu Goura	-do-	326	-do-	-do-	1986
15	Mundri Mahatain	-do-	404	-do-	-do-	1986
16	Pana Mejhan	-do-	714	-do-	-do-	1986
17	Jamuna Mejhan	-do-	734	-do-	-do-	1986
18	Srimati Mejhan	-do-	915	-do-	-do-	1986
19	Makhani Mejhan	-do-	1050	-do-	-do-	1986
20	Bahamani Mejhan	-do-	160	-do-	-do-	1986
21	Ludhri Mundain	-do-	194	-do-	-do-	1986
22	Ramjanam Munda	-do-	124	-do-	-do-	1986
23	Ramcharan Cgowhan	-do-	326	-do-	-do-	1986
24	Parwati Mudi	-do-	184	-do-	-do-	1986
25	Manjo Mundain	-do-	196	-do-	-do-	1986
26	Ramani Mejhan	-do-	152	-do-	-do-	1986
27	Parbati Mejhan	-do-	909	-do-	-do-	1986
28	Santi Mejhan	-do-	490	-do-	-do-	1986
29	Maharaj Majhi	-do-	—	-do-	-do-	1986
30	Kapildeo Mahto	Truck/Loader	443	Shell-Picker	-do-	1986
31	Raghu Mahto	-do-	460	-do-	-do-	1986
32	Ramdeo Sah	-do-	112	-do-	-do-	1986
33	Ram Bishun Mahto	-do-	461	-do-	-do-	1986
34	Ram Pravesh Mahto	-do-	469	-do-	-do-	1986
35	Bishundeo Mahto	-do-	454	-do-	-do-	1986
36	Yamuna Mahto	-do-	—	-do-	-do-	1986
37	Baidyanath Majhi	-do-	729	-do-	-do-	1986
38	Haradhan Majhi	-O.B.R.	J851	Gen.Maz.	-do-	1986
39	Kalachand Majhi	Truck/Loader	862	-do-	-do-	1986
40	Ajmul Mia	-do-	EP 117	Gardener	-do-	1986
41	Lakhi Ram Majhi	Stacker/Loader	J815	-do-	-do-	1986
42	Sangulal Majhi	Wagon Loader	194 EP	-do-	-do-	-do-
43	Motilal Majhi	O.B.R.	J852	-do-	-do-	-do-
44	Ronu Roy	Coal Stacker	1086	-do-	-do-	-do-
45	Bijoy Singh	Truck/Loader	J776	-do-	-do-	1986
46	Ramayan Mahto	Truck/Loader	—	Dumper Khalasi	-do-	1986

Sl.No.	Name	Designation	Date of Appt.	Date of Birth	CMPF No.	Place of posting	ID. Card No.
1.	Gulab Ch. Manjhi	Truck Loader	02.01.73	02.01.47	C/423950	Basantimata	242182
2.	Janak Mahto	-do-	-do-	02.01.49	C/423964	-do-	245152
3.	Ramayan Mahto		-do-	02.01.44	C/423941	-do-	—
4.	Gorabi Majhan	-do-	—	—	—	—	—

2. After receipt of the reference the parties are noticed. Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence no Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 24 जुलाई, 2015

का.आ. 1568.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 50/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2015 को प्राप्त हुआ था।

[सं. एल-20012/399/1991-आईआर(सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2015

S.O. 1568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/1993) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 24.07.2015.

[No. L-20012/399/1991-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Ref. No. 50 of 1993

Employer in relation to the management of Moonidih
Project of M/s. BCCL,

AND

Their workmen.

Present:

Sri Ranjan Kumar Saran,
Presiding Officer.

Appearances:

For the Employers :

Sri D.K. Verma, Advocate

For the workman :

None

State : Jharkhand.

Industry : Coal.

Dated : 06.05.2015

AWARD

By Order No. L-20012/399/1991-IR(C-1), dated 06/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of management of moonidih project M/s. B.C.C.Ltd, P.O. Moonidih, Dist. Dhanbad, in stopping, Shri Raj Kumar Beldar (No. 6924), Durga Mahali (NO. 6788), Arun Kumar Roy (No. 6823) and Jugal Prasad (No. 6814) from duty w.e.f. 13.08.1990 is justified? If not to what relief the workmen are entitled?”

2. After receipt of the reference, parties are noticed. Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime, Hence no Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 24 जुलाई, 2015

का.आ. 1569.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 52/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2015 को प्राप्त हुआ था।

[सं. एल-20012/369/1991-आईआर(सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2015

S.O. 1569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award Ref. 52/1993 of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. ECL and their workmen, received by the Central Government on 24.07.2015.

[No. L-20012/369/1991-IR(C-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act,
1947

Ref. No. 52 of 1993

Employer in relation to the management of Khudia
Colliery of M/s. ECL,

AND

Their workmen.

Present: SRIR.K. SARAN,
Presiding Officer.

Appearances:

For the Employers : Sri D. K. Verma, Advocate
For the workman : None
State : Jharkhand. Industry : Coal.
Dated : 03.06.2015

AWARD

By Order No. L-20012/369/1991-IR(C-1), dated 06/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bihar Colliery Kamgar Union for regularization of S/Shri Srikant Karmakar and 18 others by the management of Khudia Colliery of M/s. Eastern Coalfields Ltd., Kapasara Area is justified? If yes, to what relief the concerned workmen is entitled?"

Note:—List of workmen is not received alongwith order of reference.

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence no Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 24 जुलाई, 2015

का.आ. 1570.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 13/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2015 को प्राप्त हुआ था।

[सं. एल-20012/83/2013-आईआर(सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2015

S.O. 1570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 13/2014 of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 24.07.2015.

[No. L-20012/83/2013-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act,
1947

Reference No. 13 of 2014

Employer in relation to the management of Loyabad
Colliery, Sijua Area of M/s. BCCL,

AND

Their workmen.

Present: Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate
For the workman : Sri M. Prasad, Advocate.
State : Jharkhand. Industry : Coal.
Dated : 14.05.2015

AWARD

By Order No. L-20012/83/2013-IR(CM-1), dated 13/02/2014, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Loyabad Colliery of M/s. B.C.C.L in dismissing Sri Prushotam Dora Ex-M/Loader from the service of company vide order dated 18.10.2007 is fair and justified? To what relief the concerned workman is entitled to?"

2. The case is received from the Ministry of Labour on 24.02.2014. After receipt of reference, both parties are noticed, the workman files their written statement on 28.05.2014. Management also files written statement on 24.10.2014. The point involved in the reference is that the workman has been dismissed from his services.

3. During preliminary hearing it is revealed that the case is dismissal of workman is for long absence on duty. But he has already out of service for 08 years. It is felt to give another chance to the workman to serve.

4. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee. But the workman be kept under probation for the period of two years and his performance report be given to the under signed. Therefore the question of back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer.

नई दिल्ली, 24 जुलाई, 2015

का.आ. 1571.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 55/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/07/2015 को प्राप्त हुआ था।

[सं. एल-20012/301/2001-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2015

S.O. 1571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 24/07/2015.

[No. L-20012/301/2001-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D.
Act, 1947

Reference No. 55/2002

Employer in relation to the management of the
Kusunda Area No. VI, M/s. BCCL

AND

Their workmen

Present: SHRI R.K. SARAN Presiding Officer

Appearances:

For the Employers: Shri U.N. Lall, Advocate

For the workman: None

State: Jharkhand.

Industry: Coal

Dated: 25/6/2015

AWARD

By Order No. L-20012/301/2001 IR (C-1) dated 10/05/2002, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Kusunda Area of M/s. BCCL in not providing regular employment to Shri Nageshwar Paswan & 88 Others (as per list) engaged on the job of shall Pickling and Coal breaking etc. at Kusunda Area is fair and justified? If not, to what relief are the concerned workmen entitled and from what date?"

Sl.No.	Workman Name	Father's Name	Full Address
1	2	3	4
1.	Nageshwar Paswan	Late Kisun Paswan	Vill-Nawadih Kusunda, P.O. Kusunda, P.S. Kenduadih, Distt. Dhanbad
2.	Sushla Devi	Late Nageshwar Paswan	-do-
3.	Basant Paswan	Late Kisun Paswan	-do-
4.	Suresh Paswan	Shri Karam Paswan	-do-
5.	Bhuneshwar Paswan	Shri Karam Paswan	-do-
6.	Vakil Paswan	Late Prasadi Paswan	-do-
7.	Kapil Paswan	Late Phaudari Paswan	-do-

1	2	3	4	1	2	3	4
8.	Krishan Bhuiya	Shri Rameshwar Bhuiya	-do-	40.	Chandrama Rajbhar	Shri Laljeet Rajbhar	-do-
9.	Aanandi Paswan	Shri Ganesh Paswan	-do-	41.	Ashok Bhuiya	Shri Jalandhar Bhuiya	-do-
10.	Pramila Devi	Shri Rajbali Paswan	-do-	42.	Mahadev Saw	Late Meva Saw	-do-
11.	Kaushliya Devi	Shri Bhuneshwar Paswan	-do-	43.	Sihanti Devi	Shri Bijay Bhuiya	-do-
12.	Kuru Bhuiya	Shri Kali Charan Bhuiya	-do-	44.	Poiwa Devi	Ranjendra Paswan	-do-
13.	Bali Ram Paswan	Shri Durga Paswan	-do-	45.	Sidheswar Paswan	Late Lalo Paswan	-do-
14.	Kanta Devi	Shri Bali Ram Paswan	-do-	46.	Sanjay Paswan	Shri Ramautar Paswan	Vill-Nayadeeh Kusunda, Post Kusunda, P.S. Kenduadih, Distt. Dhanbad
15.	Sunaina Devi	Basant Bhuiya	-do-	47.	Pramod Paswan	Shri Sidheshwar Paswan	-do-
16.	Urmila Devi	Shri Suresh Paswan	-do-	48.	Karu Bhuiya	Shri Ramdhani Bhuiya	-do-
17.	Basant Bhuiya	Shri Ramdhani Bhuiya	-do-	49.	Virendra Paswan	Shri Dahu Paswan	-do-
18.	Jintendra Kumar Das	Shri Mathura Das	-do-	50.	Ghanshyam Bhuiya	Shri Bangali Bhuiya	-do-
19.	Munma Devi	Shri Kapil Paswan	-do-	51.	Saryug Paswan	Late Raghu Paswan	-do-
20.	Shri Rajbali Paswan	Late Lalo Paswan	-do-	52.	Shanti Devi	Shri Siya Ram Paswan	-do-
21.	Champa Devi	Shri Lalan Paswan	-do-	53.	Surendra Ram	Late Jayprakash Ram	-do-
22.	Kaila Mia	Shri Genauri Mia	-do-	54.	Bachhi Devi	Shri Kailash Paswan	-do-
23.	Rekha Devi	Shri Dahu Paswan	-do-	55.	Shri Lakshminiya Devi	Shri Sakichand Rajwar	-do-
24.	Shila Devi	Shri Latori Paswan	-do-	56.	Durgi Devi	Late Puran Chauhan	-do-
25.	Asharphi Bhuiya	Shri Banwari Bhuiya	-do-	57.	Ramchandra Bhuiya	Shri Bhajan Bhuiya	-do-
26.	Ram balak Paswan	Shri Lakhad Paswan	-do-	58.	Khagva Devi	Shri Bhajan Bhuiya	-do-
27.	Shri Rajendra Paswan	Late Baudhu Paswan	-do-	59.	Mina Devi	Shri Nunulal Paswan	-do-
28.	Bijay Bhuiya	Late Lagbu Bhuiya	-do-	60.	Mohan Paswan	Shri Karam Paswan	-do-
29.	Lalita Devi	Shri Saryug Paswan	-do-	61.	Latori Paswan	Late Ramdhani Paswan	-do-
30.	Siya Ram Paswan	Late Gaivi Paswan	-do-	62.	Dilip Paswan	Shri Karam Paswan	-do-
31.	Baleshwari Devi	Shri Barant Bhuiya	-do-	63.	Mahavir Karmakar	Shri Haradhan Karmakar	-do-
32.	Uma Devi	Shri Mahadev Saw	-do-	64.	Sunil Saw	Shri Mahadev Saw	-do-
33.	Sonma Devi	Shri Mohan Paswan	-do-	65.	Lalan Paswan	Shri Karam Paswan	-do-
34.	Urmila Devi	Shri Ram Lagan	-do-	66.	Rajmanti Devi	Shri Ram Balak Paswan	-do-
35.	Dashrath Paswan	Late Ghanshyam Paswan	-do-	67.	Ramesh Bhuiya	Late Chauthi Bhuiya	-do-
36.	Dhahu Paswan	Shri Talo Paswan	-do-	68.	Yogendra Paswan	Shri Chandu Paswan	-do-
37.	Vir Bahadur	Shri Rajendra Prasad	Joda-phatak Chandmari Road Post Dhansar, P.S. Dhansar Distt. Dhanbad	69.	Gita Devi	Shri Ashraphi Bhuiya	-do-
38.	Jai Ram Paswan	Shri Durga Paswan	-do-	70.	Reshma Devi	Shri Karu Bhuiya	-do-
39.	Sunita Devi	Shri Sidheshwar Paswan	-do-	71.	Anil Paswan	Shri Rajendra Paswan	-do-
				72.	Suhagwa Devi	Shri Jaldhar Bhuiya	-do-
				73.	Manju Devi	Shri Anil Paswan	-do-
				74.	Chinta Devi	Shri Shatrudhan Paswan	-do-
				75.	Kapil Dev Paswan	Shri Baldev Paswan	-do-
				76.	Ramji Ram	Shri Brihspati Ram	-do-
				77.	Dinesh Bhuiya	Shri Buddu Bhuiya	-do-
				78.	Nunu Lal Paswan	Late Dhneswar Paswan	-do-
				79.	Savitri Devi	Karu Buiya	-do-
				80.	Bikhari Bhuiya	Shri Somran Bhuiya	-do-

1	2	3	4
81.	Kabo Devi	Tubu Bhuiya	-do-
82.	Savitri Devi	Shri Kishori Paswan	-do-
83.	Ram Lagan Paswan	Late Bodan Paswan	-do-
84.	Ramjatan Chauhan	Shri Sarju Chauhan	-do-
85.	Devpatiya Devi	Ramjatan Chauhan	-do-
86.	Shri Ram Prasad	Shri Suribali Prasad	-do-
87.	Dilip Paswan	Rajbali Paswan	-do-
88.	Aanandi Paswan	Lalo Paswan	-do-
89.	Kavindra Ram	Shri Ram	-do-

2. After receipt of the reference, both parties are noticed. But none appears on behalf of the workman subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer
नई दिल्ली, 27 जुलाई, 2015

का.आ. 1572.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, पटना के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 190/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/07/2015 को प्राप्त हुआ था।

[सं. एल-40011/29/2013-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 27th July, 2015

S.O. 1572.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Ref. No. 190/2013) of the Central Government Industrial Tribunal-cum-Labour Court (No. 2), Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Patna and their workmen, which was received by the Central Government on 21/07/2015.

[No. L-40011/29/2013-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD

Present

SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 190 of 2013

Parties : The President

BSNL Casual Shramik Sangh, Dulhin Bazar,
Belhouri, Patna, Bihar,

Vs. Chief General Manager,

Bharat Sanchar Nigam Limited, Patna Telecom
Circle, Patna, Bihar.

Ministry's Order No. L-40011/29/2013-IR(DU)
dt. 06.08.2013

Appearances:

On behalf of the workman/Union : None

On behalf of the Management : Mr. Sushil Pd. Ld.
Advocate.

State: Bihar

Industry Telecommunication

Dated, Dhanbad, the 4th June, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-40011/29/2013-IR(DU) dt. 06.08.2013.

SCHEDULE

"Whether the action of the Management Bharat Sanchar Nigam Ltd., Patna in terminating the services of Shri Jitendra Choudhary, workman *w.e.f.* 01.02.2012 is legal and justified? To what relief the workman concerned is entitled to?"

Neither any Union Representative for workman Jitendra Choudhary nor workman himself nor any one likewise appeared for OP/Management of BSNL, Patna Telephone Circle, Patna, Bihar nor any written statement with any documents filed till now on behalf of the Management.

On perusal of the case record, I find that despite three Regd. notices to the President of the Union concerned on his address as noted in the Reference itself seven after one more chance following the last one for it, no written statement of the workman with any documents filed so far. The Union Representative and the workman by their won conducts appear to be quite reluctant to pursue the case for its final disposal. Under these circumstances, it appears to be no longer any Industrial Dispute related to termination of the workman concerned. Hence the case is closed as no I.D. and accordingly, it is passed as "No Dispute Award."

KISHORI RAM, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ. 1573.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 53/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22012/221/2004-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी
New Delhi, the 27th July, 2015

S.O. 1573.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Satgram Area of Eastern Coalfields Limited, and their workmen, received by the Central Government on 27/07/2015.

[No. L-22012/221/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Shri Pramod Kumar Mishra,
Presiding Officer

REFERENCE No. 53 of 2005

PARTIES: The management of Nimcha Colliery of M/s. ECL
Vs.
Sri Ganesh Prasad Gupta

REPRESENTATIVES:

For the management : Shri P.K. Goswami, Ld.
Adv.
For the union (Workman) : Sri Rakesh Kumar,
President, KMC
Industry: Coal State: West Bengal
Dated: 13.07.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/221/2004-IR(CM-II) dated 29.06.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Nimcha Colliery of M/s. ECL in not assessing the age of Shri Ganesh Prasad Gupta as per S.S. No. 76 of JBCCI is legal and justified? If not, to what relief the workman is entitled?"

Having received the Order No. L-22012/221/2004-IR(CM-II) dated 29.06.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 53 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out Shri Rakesh Kumar, General Secretary of the union (KMC) appears on behalf of the workman.

Shri Rakesh Kumar submits that the case may be closed and a 'No Dispute Award' may be passed as the workman is not interested to proceed with the case further. He also made an endorsement on the order sheet to that effect. Since the workman is not interested to proceed with the case, the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ. 1574.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ संख्या 4/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22013/1/2015-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.4/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. II, Delhi as shown in the Annexure, in the industrial dispute between the management of CPWD and their workmen, received by the Central Government on 27/07/2015.

[No. L-22013/1/2015-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, ROOM
NO. 33, BLOCK-A, GROUND FLOOR,
KARKARDOOMA COURT COMPLEX,
KARKARDOOMA, DELHI-110032**

Present: Shri Harbansh Kumar Saxena,

ID No. 4/2012

Sh. Manish Singh, S/o. Late Anand Swaroop,
CPWD General Manager Union,
Room No. 95, Barrack No. 1/10,
Jam Nagar House, Sahjahan Road,
New Delhi-110011.

Versus

Director General (works),
CPWD, Nirman Bhawan,
New Delhi-110005.

AWARD

Application on behalf of workman under section 33 A of I.D. Act 1947 has been filed. Which was registered as ID No. 4/2012.

Application contains following facts:—

1. That the dispute for regularization and grant of regular pay scale in which the name of Sh. Manish is also connected and the same is pending before this Hon'ble Tribunal in I.D. No. 38/2006 for industrial adjudication.
2. That the management terminated the services of Sh. Manish Kumar *w.e.f.* 13.12.2011 without taking prior permission before this Hon'ble Tribunal so the workman is filling this complaint under section 33A I.D. Act, 1947.
3. That Sh. Manish S/o Late Sh. Anand Swaroop has been working as Sewerman *w.e.f.* 15.01.2000 under PWD II Sub Division IV through fake contractor. Now the said division is changed as M-131, Sub Division 1313, LNJP Hospital by Sh. Harsh Wardhan Malhotra, Jr. Engineer by instigation of Executive Engineer Sh. A.K. Singh and in his place another worker Karan was employed in his place which is serious violation of Section 33 of I.D. Act as well as Section 25 F as well as 25 G of I.D. Act, 1947.
4. That the workman initially engage as Sewerman *w.e.f.* 15.01.2000 and completed more than 240 days in each of the calendar year and worked continuously and his services were terminated *w.e.f.* 13.12.2011 without any notice or notice pay as provided under section pay as provided under section 25 F (a) and (b) of I.D. Act. On this ground

also the termination of the workman is illegal, unjustified, unfair and against the provisions of natural justice also.

5. That it is also brought to the notice of this Hon'ble Tribunal that the dispute for regularization and equal pay for equal work is pending this Tribunal and without taking prior permission from the said Court the services of Sh. Manish cannot be terminated as Section 33 of the said Act is in operation. In view of this the termination of the workman is nonest.
6. That it is also brought to the notice of this Hon'ble Tribunal that the reference has been issued by the Ministry of Labour, Govt. of India *vide* its order No. L-42012/87/2005-IR (CM-II) dated 12.06.2006 and his name is appearing at Sl. No. 18 in that list. The said reference is dealt by the Ld. Presiding Officer, CGIT-cum-Labour Court as ID. No. 38/2006.
7. That the work of Sewerman has been abolished by the Ministry of Labour through their notification No. SO 813 (E) dated 31st July, 2012 so the work of Sewerman cannot be executed through contract labour and the management cannot terminate their services without taking prior permission from this Hon'ble Tribunal and the Management did not comply the provisions of Section 25F and Section 25G of I.D. Act as the junior person like Mr. Karan has been employed after terminating the services of Sh. Manish. It is also brought to the notice of this Hon'ble Tribunal that without taking prior permission from the Ld. Presiding Officer, CGIT-Cum-Labour Court No. II also attract penal consequences u/s 31 of ID. Act. Provision of Section 31 is reproduced as under:—

"Penalty for other offences—1 Any employer who contravenes the provisions of Section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees."
8. That the termination of the workman also attracts unfair labour practice as mentioned in the 5th Schedule of Section 2 (ra) of I.D. Act.
9. That after termination of the services Sh. Manish is unemployed so he is entitled to be reinstated with full back wages alongwith all consequential benefits. The demand notice dated 14th May, 2012 is served to the management but the management did not paid any heed and did not replied to

demand notice. Copy of the demand notice is Ennixed as Annexure-B.

PRAYER:

In view of the above it is prayed that the services of Sh. Manish be reinstated *w.e.f.* 13.12.2011 with full back wages alongwith all consequential benefits.

Against allegations made in application respondent filed written statement on 25.03.2013. Contents of written statement are as follows:—

1. That the claim of the workman arises through (claiming under) independent contractors who were appointed as a result of Tender and they were employed under such contracts which were granted on the yearly basis or part there of by the Govt. on the basis of competitive bidding under the tender process, which clearly implies that the employment of the same contractor including the workman claiming through or under such tender contractors, is not guaranteed or permanent beyond the duration specified under the tender terms and conditions, to confer the status of permanent workman as employees of the Govt. upon the workman of an independent Tender contractor is completely unfounded, baseless and against the settled rules of labour laws. It is further submitted that such workman was working as tender contract employees under the independent contractor who was appointed by invitation to bid through a competitive tender process. It is almost surprising as to how such pretended applicant/workman could be held to be employees of the Govt./Management.
2. That the present Statement of Claim filed by the workman is liable to be dismissed with heavy costs as the workman has not come before this Hon'ble Court with clean hands.
3. That the workman/applicant has misused the process of law and the Management is being harassed by the workman without any cause of action, so the present statement of claim of the workman is not maintainable and the same is liable to be dismissed.
4. That the present Statement of claim is bad for mis-joinder and non-joinder of necessary parties hence the present claim is liable to be dismissed outrightly.
5. That the workman filed the present claim against the Management with *mala-fide* intention only to achieve ulterior motive, hence the present claim of the workman is not maintainable and the same is liable to be dismissed.
6. That no notice Section 80 of C.P.C. has been served upon the answering management which is a

statutory requirement before filing the suit against Government department.

7. That the workman was/is not employee under the employment of the Management at any time or at any point hence relationship between workman and the management is denied in toto, hence the present claim of the workman is liable to be dismissed only.
8. That the workman is neither workman within the definition of workman nor employee under the Minimum Wages Act, hence the statement of claim of the workman be dismissed on this ground only.

REPLY ON MERITS:

1. That the contents of para needs no reply being matter of record. The management of CPWD/PWD is not the employer of the applicant and not paying the wages to him.
2. That regarding the contents of para it is submitted that the contractual labourers are the responsibility of the agencies to which they are engaged to execute the work for a limited period of Agreement and in any way the management of CPWD/PWD is not responsible for their appointment and termination of services, henceforth it is denied in toto that the Management terminated the services of workman without taking prior permission before this Hon'ble Tribunal. Rest of the averments of corresponding para are wrong and denied.
- 3-4. That regarding the contents of para it is submitted that workman himself has admitted that he had been appointed under "fake" contractor and he is deliberately not disclosing the name of contractor which crystal clear shows that he has not approached to this Hon'ble Court with clean hands. It is further submitted that responsibility of providing services of day to day maintenance works through contract pertains to agencies of service provider and Management of CPWD/PWD look after the works of services only and not the workman in person by name whom the agency engaged. The agencies can be different according to contract time to time, henceforth there is no violation of Section 33 of ID Act as well as Section 25(f) and 25(g) of I.D. Act, 1947 and question does not arise of giving him any notice what to talk of termination of workman as illegal, unjustified, unfair and against the provisions of natural justice. It is further submitted that the applicant/workman has not provided any documents in support of claim for providing services of sever man that he was getting his daily wages form the Management of CPWD/PWD during the period *i.e., w.e.f.* 15.01.2000 and no documents has been provided in support

that the management had engaged and paid him *w.e.f.* 15.01.2000 to 12.12.2011 along with letter of termination. The workman/applicant be put to strictly prove the averments as stated by him in claim. Rest of the averments of corresponding paras are wrong and denied.

- 5-7. That regarding contents of para it is submitted that workman/applicant was/is not employee under the employment of the Management at any time or at any point hence relationship between workman and Management is denied in toto, however dispute/case for regularization for equal pay for equal work is pending before this Hon'ble Tribunal but it is again submitted that when there is no relationship between management and applicant/workman then question doesn't arise of his termination by the answering management hence the present claim of the workman is liable to be dismissed only. It is further submitted that when relationship between management and applicant/workman is denied then question doesn't arise of penal consequences under Section 31 of I.D. Act, 1947, this is sheer pressure tactics upon answering Management with the motive of harassment to govt. Rest of the averments of corresponding para are wrong and denied.
8. That the contents of para are wrong and denied as applicant firstly workman has to prove that he was working under Management at any point of time and regarding it a reference is pending before this Hon'ble Tribunal, and further when there is no relationship between management and applicant/workman then question doesn't arise of his termination and also adopting unfair labour practices by the answering Management.
9. That the contents of para are wrong and denied as there is no relationship between management and applicant/workman then question doesn't arise of his reinstatement with full back wages along with all consequential benefits and he is not entitled for the relief he is claiming and also when there exists no relationship between management and applicant/workman then question doesn't arise of answering demand notice.

Last para is prayer which is wrong and denied, it is submitted keeping in view of the above said facts and circumstances it is clear the applicant/workman is not the employee of Management CPWD/PWD since 15.01.2000 as Management of CPWD/PWD has no relation in the matter of his appointment as well as termination of his services, as such the claim of applicant for reinstatement *i.e.* 13.12.2011 with full back wages alongwith all consequential benefits are totally unjustified and unrelated to Management of CPWD/PWD. It is prayed to

this Hon'ble Court that the Statement of claim of the workman be dismissed against the answering management after looking into facts and circumstances of the case.

Any other or further order which this Hon'ble Forum may deem fit and proper in the present facts and circumstances as afore mentioned be passed in favour of the management No. 1 and against the workman, in the interest of justice, equity and good conscience.

On the basis of pleadings of parties my Ld. Predecessor framed following issues on 03.05.2013:—

1. Whether action of the management in terminating services of the claimant on 13.12.2001 is violative of provisions of Section 33 of the Industrial Disputes Act, 1947?

2. Whether claimant is entitled to relief for reinstatement?

Workman in support of his case filed his affidavit on 26.6.2013.

Working tendered his affidavit on 26.06.2013 and he was partly cross-examined on same day.

His statement of tendering of affidavit and his partly cross-examination is as follows:—

I tender my affidavit as evidence which is Ex. WW1/A. Alongwith this affidavit, I rely on reference order dated 12.06.2006, which document is Ex. WW1/1. It may be read in support of my affidavit.

XXXX by Ms. Bindiya Savara, Ld. A/R for the management.

I was appointed by the Junior Engineer, whose name I cannot detail now. Ex. WW1/A was read over by fake contractor, a fraud contractor. I was not within my knowledge that I was working with a fake contractor.

Ques:— How you came to know that he was a fraud contractor.

Ans. Question was repeated time and again, but the witness opted not to answer. I made oral complaint to the Junior Engineer when I came to know that the contractor was fraud. No written complaint was made by me to any authority. I made that complaint orally to Sh. M.C. Jain, JE, but I do not recollect date, month and year of making the complaint. I had not made any complaint against Sh. Jain or the contractor to higher authorities. Further cross-examination is deferred for the next date.

Workman was partly cross-examined by Ld. A/R for the management on 23.07.2014. His partly cross-examination is as follows:—

Ques. Whether you have filed any document of your appointment to relating to fake contractor in your evidence.

Ans. No.

It is incorrect to suggest that I have been appointed by CPWD.

It is correct that case relating to my regularization is pending in this Tribunal.

It is incorrect to suggest that I was never been termination by CPWD as I was not its employee.

It also incorrect to suggest that I was terminated by alleged fake contractor.

It is incorrect to suggest that there is violation of provision of I.D. Act and I.D. Rules.

It is incorrect to suggest that there was no need to give notice to me.

Workman was again partly cross-examined by Ld. A/R for the management on 27.08.2014.

His cross-examination is as follows:—

It is incorrect to suggest that I was not employee of PWD or CPWD.

It is correct that I am parte in case ID. 38/2006 Sh. Mukesh Kr. Vs. CPWD.

It is wrong to suggest that there was no need to give notice to me before terminating my services.

It is also incorrect to suggest that aforesaid formulaty was not needed as I am not employee of PWD or CPWD.

I was not appointed through contractor. I was appointed by J.E.

Content of para 3 and 4 are correct of affidavit of my evidence.

It is correct that I could not filed any paper which may show that I am employee of PWD and CPWD.

It is incorrect to suggest that I filed false and fabricated case to harass the mgt. CPWD/PWD.

It is also incorrect to suggest that I am deposing falsely to prove my false and fabricated case.

Management in support of his case filed affidavit of MW1 Sh. O.P. Sharma on 15.04.2014.

I tender my affidavit which is Ex. MW1/A and I bear my signature at point A & B.

xxxx:—By Sh. B.K. Prasad, Ld. A/R for the workman.

I joined on 19.10.2012 in division which I am working.

Workman was not working in the office of CPWD/PWD.

Q. I-card of Sh. Manish Kumar shown to you was

issued by Sh. Harsh Vardhan Malhotra the then J.E. of CPWD?

Ans. I don't know the signature of J.E. Harsh Vardhan Malhotra.

Q. Whether you was posted in 2008 in this Division?

Ans. No.

Q. Whether any permission was obtained from this Tribunal before terminating the service of Sh. Manish Kumar?

Ans. Such permission was not required as workman is not workman of CPWD.

Q. Whether you know, that contractual employment of Sewerman, carpenter wireman etc. have been abolished by Ministry of Labour?

Ans. It is correct.

It is incorrect to suggest that affidavit filed by me is false and fabricated.

Ld. A/R for the workman orally argued as well as filed written arguments on 5.6.2015. Wherein he mentioned as follows:—

1. That the name of Sh. Manish Kumar is mentioned in ID. No. 38/2006 for industrial adjudication in which the name of the workman is appearing at Serial No. 18 in the list but the management terminated the services of the workman *w.e.f.* 13.12.2011 without taking prior permission from this Hon'ble Tribunal in ID. No. 38/2006.
2. That it is mandatory on the part of the management to take prior permission before terminating the services of the workman which violates Section 33 of the ID Act, 1947 and violation of the said Section is punishable as per the provisions of Section 31 of the ID. Act, 1947 and the said provision is mentioned in para 7 of ID. Act, 1947 and this action of the management is also unfair labour practice as mentioned in Vth Schedule of Section 2(ra) of the ID. Act, 1947.
3. The reference order is annexed as Exhibit WW1/1 alongwith the demand notice which is also Exhibit WW1/2. Thus it is proved that the management did not take prior permission before terminating the services of the workman which action of the management is not permissible as per the judgment of Constitution Bench of Hon'ble Supreme Court of India in Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. Vs. Ram Gopal Sharma & Ors. reported in (2002) Supreme Court Cases 244. As per the said judgment without taking prior permission the termination/discharge/dismissal is non-est and this Hon'ble CGIT-cum-Labour Court No. II may direct the management to reinstate the workman from the date

of illegal termination of services *i.e. w.e.f.* 13.12.2011 as the management violated the provisions of Section 33 of the ID Act, 1947.

4. That in this connection the Hon'ble Supreme Court in the matter of Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. Vs. Ram Gopal Sharma & Ors. reported in (2002) Supreme Court cases 244 has held in Para 6 which is reproduced as under:

"6. Answer to the question on which conflicting decision are rendered, as noticed above, depends on a fair reading and proper interpretation of Section 33(2)(b) of the Act. Prior to the amendment of 1956, the provision contained in Section 33 corresponded to the present 33(1) only. The object behind enacting Section 33, as it stood before it was amended in 1956, was to allow continuance of industrial proceedings pending before any authority/Court/tribunal prescribed by the Act in a peaceful atmosphere undisturbed by any other industrial dispute. In course of time, it was felt that unamended Section 33 was too stringent for it placed a total ban on the right of the employer to make any alteration in conditions of service or to make any order of discharge or dismissal even in cases where such alteration in conditions of service or passing of an order of dismissal of discharge, was not in any manner connected with the dispute pending before an industrial authority. It appears, therefore, that Section 33 was amended in 1956 permitting the employer to make changes in conditions of service or to discharge or dismiss an employee in relation to matters not connected with the pending industrial dispute. At the same time, it seems to have been felt that there was need to provide some safeguards for a workman who may be discharged or dismissed during the pendency of a dispute on account of some matter unconnected with the dispute. This position is clear by reading the redrafted expanded Section 33 in 1956 containing five sub-section. For the present purpose, we are concerned with the proviso to Section 33(2)(b). The material and relevant portion of Section 33 reads:

"33. Conditions of service, etc. to remain unchanged under certain circumstances during pendency of proceedings. (1)

(2) During the pendency of any such proceedings in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman.

(a) * * * *

(b) for any misconduct not connected with the dispute, discharge or punish, where by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer."

5. That the Hon'ble High Court of Delhi in the matter of Archaeological Survey of India Vs. Putti Lal & Ors. in W.P. (CO No. 16887/2004, wherein the Court required the petitioner to satisfy the Court with regard to the apparent violation of section 33 of the Act. In this regard learned counsel for the respondents submits that in para 3 of the statement of claim the respondents had pointed out that they had raised the dispute with regard to their permanent status before the Asstt. Labour Commissioner (C) on 22.08.1995 for which a date was fixed by the ALC (C) on 17.10.1995. The petitioner/management terminated the services of all the workmen between 24.01.1996 to 09.02.1996 without taking prior permission from the Conciliation Officer and thereby breached Section 33 of the Act.

12. Learned Counsel for the respondents has placed reliance on the decision of the Supreme Court Zila Sahakari Bhoomi Vikas Bank Limited Vs. Ram Gopal Sharma & Ors. (2002) 2 SCC 244 and of this Court in Director General Works. CPWD Vs. Eknath, W.P.(C) Nos. 18542/2005 and 22029/2005 decided on 17.08.2009 to submit that the breach of section 33, and the failure to take permission/approval is fatal to the action of termination of service and such action is therefore non-est.

6. That this CGIT cum Labour Court No. II is to decide the matter while reinstating Sh. Manish Kumar to set aside the breach of Section 33 of the ID. Act 1947. The Constitution Bench of Hon'ble Supreme Court of India has held that without taking prior permission even from the Conciliation Officer during the pendency of the dispute the breach of Section 33 of ID Act lead to reinstatement with full back wages in Jaipur Zila Sahakari Bhoomi Vikas Bank Limited. Vs. Ram Gopal Sharma & Ors. reported in (2002) 2 SCC 244 as the dismissal, removal etc. became non-est.

In view of the above this CGIT-cum-Labour Court No. II may kindly award reinstatement to Sh. Manish Kumar *w.e.f.* 13.12.2011 with full back wages as the management cannot terminate the services of a workman without prior permission from this CGIT-cum-Labour Court No. II with full back wages along with all consequential benefits.

Ld. A/R for the management counter contended that basis of the present I.D. is the pendency ID. No. 38/2006 on the date of alleged dismissal of workman Sh. Manish.

Reference relating ID. No. 38/2006 has been sent to this Tribunal for following adjudication:—

"Whether the action of the management of CPWD, New Delhi in not regularization the workmen, Sh. Mukesh Kumar & 116 others and not paying the wages as per the notification dated 31.07.2002 is legal and justified? if not, to what relief the workmen is entitled to?"

ID. No. 38/2006 has already decided and claim statement of all 117 workmen including Manish has been dismissed through award dated 2.2.2015 passed by this Tribunal. Hence, present ID. which is relating to contractual employee Manish is also liable to be decided against him as provision of Section 33 and 33A of ID. Act are inapplicable on contractual employees because tenure of service of contractual employee depends on the duration of contract.

In ther light of contention and counter contentions I perused the record of ID. No. 38/2006 as well as ID. No. 4/2012.

Pleading of which makes it crystal clear that workman Sh. Manish was employed by contractor alleging him to be fake contractor. Any how Sh. Manish was contractual employee. So, it cannot be denied that in such case term of service of contractual employee depends upon duration of contract. Moreover, in the instant case as well as in ID. No. 38/2006 contractor has not been made party. It is relevant to mention here that while deciding ID. No. 38/2006. I recorded following findings:—

“Perusal of evidence of record shows that workman Sh. Joginder Singh has only been examined on behalf of workmen.

It is relevant to mention here that no documentary evidence has been produced on behalf of workmen. It is also relevant to mention here that workmen have not applied through application u/s 11(3) of I.D. Act to direct the management to produce the original documents which may support the case of workmen. Non moving of application u/s 11(3) ID. Act on behalf of workmen raises adverse inference against workmen u/s 114(g) of the Indian Evidence Act.

It is also relevant to mention here that pleadings of any party without required evidence are useless. On the basis of which no case of workmen is made out.

Moreover, settled Law of Hon'ble Supreme Court in case of Secretary State of Karnataka & Others Vs. Uma Devi and Others 2006(4) SCC 1 is applicable in the instant case. On the basis of which none of the workmen are entitled to any relief."

On the basis of aforesaid findings, I decided the reference against workmen and in favour of management

and I also dismissed the claim statement of 117 workmen through, award dated 2.2.2015.

It is also relevant to mention here that principles laid down by their lordship of Hon'ble Supreme Court in case of Punjab Beverages (P) Ltd. Vs. Suresh Chand, (1978) 2SCC 144. Wherein their lordship of Supreme Court held as follows:—

"Discharge or dismissal order does not become void on mere contraventions of Section 33. The Tribunal has to examine under Section 33A. The merits of the dismissal order considering all aspects of the case. In appropriate cases it is entitled to trial the breach of section 33 as mere technical breach and sustain the dismissal order."

Moreover, ruling sited on behalf of workman and mentioned in written arguments on behalf of workman are inapplicable in the instant case due to distinguishable facts because it is settled law of Hon'ble Supreme Court that principle of law laid down by Hon'ble Supreme Court and Hon'ble High Court cannot be apply case. Wherein facts are distinguishable from facts of reported case.

In this background detailed written arguments could not cast any impressosn on me. Although, Ld. A/R for the workman left no stone unturned to impress me.

On the basis of aforesaid discussion I am of considered view that reference is liable to be decided against workman Sh. Manish and in favour of management. Which accordingly decided. Claim statement of workman Sh. Manish is hereby dismissed.

Award is accordingly passed

dated:—30.6.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1575.-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईएमटी के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, न. 1 चण्डीगढ़ के पंचाट संदर्भ संख्या 36/2002 को प्रकाशित करती है जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/66/2001-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1575.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2002) of the Cent. Govt. Indus. Tribunal-Cum-Labour Court No. 1 Chandigarh as shown in the Annexure, in the industrial dispute between the management of Institute of Microbial

Technology and their workmen, received by the Central Government on 27/07/2015.

[No. L-42012/66/2001-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT I,
CHANDIGARH**

**Case No. ID 36 of 2002. Reference No. - L-42012/66/
2001-IR (CM-II) dated 30.01.2002.**

Shri Dharminder, S/o Sh. Ram Dhan, H.No. 1049, Dadu Majra Colony, Chandigarh.

...Workman

Versus

1. The Director, Insutiture of Microbial Technology,
Section 39-A, Chandigarh,

...Respondent

APPEARANCE :

For the Workman : Shri Parkash Chand Advocate

For the Management : Shri I.S. Sidhu Advocate

AWARD

Passed on 14.07.2015

Governments of India Ministry of Labour *vide* notification. L-42012/66/2001-IR (CM-II) dated 30.01.2002 has referred the following dispute to this Tribunal for adjudication.

“Whether the action of the management of Microbial Technology Chandigarh in terminating the services of Shri Dharminder S/o Sh. Ram Dhan *w.e.f.* 18-05-99 is legal and justified? If not to what relief the workman is entitled?”

2. In claim statement the workman submitted that he was appointed as sweeper-cum-attendant through contractor on 2-6-1997 for a period of one year and after the expiry of said contract period, the respondent management No. 2 duly allowed the workman to work continuously without any break. The workman worked with the respondent management *w.e.f.* 2-6-97 to 18-5-99 continuously when forcibly management terminated his services without complying with the mandatory provisions

of Industrial Disputes Act 1947. At the time of his termination the workman was drawing Rs. 1884/- per month. The workman approached the Central Administrative Tribunal, Chandigarh Bench for regularization of services and on coming to know about this the management terminated his services on 18.5.99. The Central Administrative Tribunal Chandigarh disposed off the Original Application filed by workman the directions "workmen will be at liberty to approach the appropriate forum for the redressal of their/his grievances." The workman prayed for reinstatement of his services with continuity and full back wages as he is legally entitle for.

3. The management filed reply. Preliminary Objection has been taken that the claimant deployed to the management by the contractor. Therefore, relationship of master and servant is no existed between the claimant and the management. The claimant knowingly and deliberately not impleaded the contractor who deployed him. It is further pleaded by the workman that the claimant never employed by the management for the period mentioned. The claimant and his other co-worker who were deployed by the contractor abandoned their duties on 14-5-99 voluntarily to protest against the transfer of one Trishpal by the contractor to another Institute. Thereafter, neither the claimant nor any office-co- deployed persons ever deployed with the the management thereafter. The claimant was receiving his dues from the contractor and management was paying lump sum amount to the contractor in accordance with term of contract. The management submitted that experience certificates issued in favour of claimant on asking of the claimant to be used by him for seeking employment elsewhere. The management has not violated any provisions of law and there is no merit in the claim of the claimant and the present reference deserves rejection.

4. In evidence workman filed affidavit in evidence. The management also filed affidavit of Chhering Tobden Controller of Administration of the management Institution. The management also placed on record documents Ex.M-2 to M-8. Both the witnesses of the parties were cross-examined by rival counsels.

5. I have heard the parties and gone through the evidence and record.

6. During the course of arguments learned counsel of the management placed on record the copy of award passed in ID No. 698 of 2005 by CGIT-II, Chandigarh in similar case.

7. Learned counsel for the workman submitted during arguments that the workman was directly employed by the management and he has completed more than 240 days service during one calendar year and his services have been terminated by the management in violation of provisions of

Industrial Dispute Act. It is also submitted that management has not examined the contractor which shows that there is relationship of employer and employee between the management and the claimant. On the other hand learned counsel for the management submitted that in para 1 of the claim statement workman himself admitted that he was employed through contractor with the management which shows that there was no relationship of employer and employee between the parties. As there exist no relationship of employer and employee, therefore, management has not violated any provisions of Industrial Dispute Act, 1947. Learned counsel for the management also submitted that the respondent management is not Industry under the provisions of the Industrial Disputes Act, 1947. Learned counsel for the management also filed copy award passed in ID No. 698/2005 by learned Central Govt. Industrial Tribunal-cum-Labour-Court-II, Chandigarh.

8. From the record it is revealed that workman himself pleaded in para No. 1 of claim statement that he was appointed as sweeper-cum-attendant through a contractor on 2-6-97 for a period on one year. There is no document which shows that after of the completion of one year the workman was ever appointed with the management. There is no document on the record to show that workman was paid salary by the management. There is a specific assertion of the management that workman was deployed with the management through contractor. The admission on the part of the workman in his claim statement clearly shows that he was deployed with the management through contractor.

9. There is no denial of the fact that co-workers filed OA No. 471-PB-99 which was decided on 11-1-2000 and it was observed in the judgement that the workmen are essentially employees of contractor who provided labour to the management and his order being not challenged attained finality. It is pertinent to mention that the workman has not impleaded the contractor as party in the present reference.

10. In view of the discussion made in the above paras, it is held that the applicant workman was never engaged by the management at any point of time and he was the employee of the contractor who deployed him with the management. There is no relationship of master and servant between the parties and his services were not terminated by the management. resultantly there is no violation of any provision of Industrial Dispute Act on the part of the management.

11. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh. 14-07-2015 S.P. SINGH, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1576.-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 39/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22011/6/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1576.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 39/2012) of the Cent. Govt. Indus. Tribunal-Cum-Labour Court Kanpur as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, TC/3C, FCI, 16/20, HQrs. Barakhamba Lane, Food Corporation of India 14/79, and their workmen, received by the Central Government on 27/07/2015.

[No. L-22011/6/2012-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE SRISHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR
Industrial Dispute No. 39 of 2012**

Between-

The General Secretary,

Food Corporation of India Handling Workers Union,

8651 Arakashan Road,

New Delhi.

and

The General Manager,

Food Corporation of India,

TC/3C Vibhuti Khand,

Gomti Nagar,

Lucknow.

AWARD

New Delhi, the 27th July, 2015

1. Central Government, MoI, New Delhi, *vide* notification No. L-22011/06/2012-IR- (CM-II) dated 17-05-2012, has referred the following dispute for adjudication.

2. Whether the 224 persons whose names appear in the annexure A have ever worked in the Food Corporation of India, FSD Etawah ? If so, whether they are entitled to be retained as employees of Food Corporation of India after abolition of Contract Labour System? If not what relief they are entitled to?

3. In the Instant case one Jai Chandra Bhadoria and 223 other workers are involved. After exchange of pleadings between the parties *vide* order dated 29.04.2013, opportunity to file rejoinder and documents by the Union was closed as none appeared from the side of the Union. Again on 01.08.2013 none appeared in the case from the side of the Union, therefore, opposite party did not prefer to file documents in the case.

4. On 23.09.2013, when the case was taken up, none turned up from the side of the Union and considering the fact that no evidence has been adduced therefore, the opportunity to adduce evidence was closed and the case was fixed for arguments of the parties.

5. On 23.01.2014 again none was present from the side of union; therefore, case was reserved for award.

6. From the above it is abundantly clear that it is a case of no evidence. As such tribunal is left with no option but to answer the reference in negative against the Union holding that for want of evidence and proof the union is not entitled for any relief.

7. Reference is answered accordingly against the Union raising the present dispute.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1577.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ सं. 78/ 2001 को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.07.2015 को प्राप्त हुआ था।

[सं. एल-22012/200/2000-आईआर(सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

S.O. 1577.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 78/2001) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Limited, and their workmen, received by the Central Government on 27.07.2015.

[No. L-22012/200/2000-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/78/2001

Shri Ashok Mishra,

S/o Ram Prasad Mishra,

Ex Cashier, Bazar Road,

Chandametta,

Distt. Chhindwara

...Workman

Versus

General Manager,

WCL, Pench Area,

PO Parasia,

Distt. Chhindwara

...Management

AWARD

Passed on this 19th day of June, 2015

1. As per letter dated 12.4.2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/200/2000-IR(C-II). The dispute under reference relates to:

“Whether the action of the Dy. General Manager, WCL, Pench Area, PO Parasia, Distt. Chhindwara in dismissing the services of Shri Ashok Mishra, Cashier of Regional Workshop of WCL, Chandametta w.e.f. 24.6.95 is justified? If not, what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/9. Case of workman is that he was employed on post of cashier in Regional workshop at Chandametta at WCL. That false chargesheet was served on him. Exparte enquiry was conducted and he was dismissed from service as per order dated 24.6.95. It is further submitted that he was appointed as accounts clerk Grade II on 10.10.76. He was posted at GM Office at Parasia. In October 1981, he was transferred to Chandametta. He was promoted as Account Clerk Grade I on 7.11.81. He had completed 20 years unblemished service before his dismissal. He was performing duty of cashier in Regional Office, Chandametta. On 21.3.94 he was suspended on complaint about missing the cheques of gratuity amount and theft of gratuity cheque No. 620021 of one Shri Sitaram Vishwakarma and misappropriation. That any document alongwith chargesheet were not served on him. The suspension order was issued by Dy. General Manager (Mining) Pench Area. Shri L.S. Thawrani was appointed as Enquiry Officer, Shri M.L. Chourasia was appointed as management's representative. Enquiry was fixed on 8.7.94. It was adjourned to 10.4.94 enquiry was adjourned time to time *i.e.* 25.12.94, 25.2.95 & 17.5.95. That Notice of enquiry was published in Jabalpur Express which was not published in Parasia or Chhindwara, the enquiry conducted against him is illegal. Enquiry Officer submitted his finding on 22.5.95 on basis of finding of Enquiry Officer. Dy. General Manager issued order of his dismissal on 24.6.91.

3. Workman submits that Enquiry Officer was biased. The principles of natural justice were violated. Enquiry Report was not served on workman. The allegation in chargesheet were vague. Findings of enquiry Officer are perverse. The order of dismissal passed on findings of illegal enquiry is illegal. Workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at Page 5/1 to 5/13 opposing claim of workman. Preliminary objection is raised that the workman was dismissed in 1995, the dispute was raised after long lapse of time in 2000 is not tenable. The appointment and promotion of workman to accounts clerk Grade I on 7-11-81 is not disputed. IInd party reiterates that workman did not maintain register for making entries for cheques and receipt and disbursement. Workman fraudulently manage to steal cheque No. 620021 and 620029 prepared in name of Shri Sita Ram Vishwakarma and Shri Balkar Singh. That the workmen managed to open account in SBI Burkui Fraudulently in name of those employees and withdrawn amount of Rs. 45,000/- That cheque of Rs. 75,000/- was issued in name of Shri Ram Vishwakarma and Balkar Singh were found missing. The incident was report to police. The cheque in name of Balkar Singh and some cash was recovered from house of

workman. Chargesheet was issued to him. That Shri M.L. Choursia was appointed as Enquiry Officer, Shri L.S. Yavrani as management's representative as per order dated 19-6-94. Enquiry was Conducted on 8-7-94, 10-7-94, 26-8-94, 25-12-94, 17-5-95 & 22-5-95. Despite of public notice in newspaper, he did not participate in Enquiry Proceedings. Enquiry was proceeded exparte and statements of management's witnesses were recorded on 22-5-95. It is reiterated that Enquiry Officer chargesheet considering evidence. Charges against workman were proved. The Competent Authority considering serious nature of charges, issued order of dismissal of workman on 24-6-95. IInd party submits that punishment of dismissal of workman is proportionate to the seriousness of the charges. Dismissal of workman is proper and legal.

5. As per order dated 8-7-2014, the enquiry conducted against workman is found proper and legal.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reason as below:—

- | | |
|--------------------------------|-------------------------|
| (i) Whether the misconduct | In Affirmative |
| alleged against workman is | |
| proved from evidence in | |
| Enquiry proceedings? | |
| (ii) Whether the punishment of | In Affirmative |
| dismissal imposed against | |
| workman is proper and legal? | |
| (iii) If not, what relief the | Workman is not |
| workman is entitled to?" | entitled to any relief. |

REASONS

7. As stated above, enquiry conducted against workman is found legal and proper, question arises whether the charges alleged against workman are proved from evidence in Enquiry Proceedings and whether punishment of dismissal imposed against workman is proper and legal. Ist point requires to be decided considering evidence in Enquiry Proceedings. Document produced Exhibit W-1 is order of suspension, W-2 is order appointing Enquiry Officer and management's representative. Exhibit W-3 is copy of Enquiry Proceedings. Original record of enquiry is also produced in the matter. Exhibit W-4 is copy of Enquiry Report. W-5 is notice issued to workman about unauthorized occupation of the quarter. W-6 is order of dismissal dated 24.6.95. Management has produced documents M-1 application submitted by workman to keep

enquiry in abeyance M-2 to M-4 are workman requesting adjournment of enquiry. Documents Exhibit M-5 & M-6 have no direct bearing on the point of proof of the charges alleged against workman. Exhibit M-7/1 to 7/17 are record of enquiry conducted against workman. The statements of management's witnesses recorded in Enquiry Proceedings Exhibit 7/3. Management's witness Shri L.S. Yavarani in his statement says that he was working as General Manager on 16.3.94. Suptd. Engineer brought to his notice that the cheque of gratuity were missing. Those cheques were bearing No. 620021 & 620029. The Bank was immediately informed to stop payment. The cheque issued in name of Sitaram S/o Kishore was credit in State Bank of India. It was disclosed that amount of Rs. 75,000 was deposited in account and amount of Rs. 35,000 was withdrawn from it. When enquiry was made from Shri Sitaram, he disclosed that he has neither opened any account nor withdrawn any amount. The account was opened in name of Shri Sitaram and amount of Rs. 35,000 was withdrawn. As per rules, the cheque were in custody of workman. The cheque for amount of Rs. 45,513.25 in name of Shri Balkar Singh was received. On search, said cheque was received from house of workman. On enquiry, workman did not explain anything about it. Management's witnesses Devra Gogre and accountant A.L. Vishwakarma in their statement has disclosed that the cheques were in custody of workman Shri Ashok Mishra. The management's witness Haradhan Mukherjee Executive engineer in Chandametta workshop in his statement says that cheques in name of Sitaram and Balkar Singh were received but no due certificate were not submitted. Therefore cheques were not disbursed. The cheques were found missing, the incident was reported to police. Shri Ashok Mishra and Kundan Lal Vishwakarma were arrested. Kundan Lal Vishwakarma the guaranter for opening account of Gajadhar was apprehended. Account was opened in name of Shri Sitaram Vishwakarma, by Yogendra, brother of workman and amount was withdrawn. Cheque in name of Balkar Singh was received from house of workman. Evidence of all witnesses of management remained unchallenged. Workman has not participated in enquiry despite of repeated notices and public notice. Exhibit M-7/16 letter by Accounts Officer w.r.t. the cheques sent to the Manager. The Enquiry Report is produced at Exhibit M/7/17. Enquiry Officer had considered statements of all the management's witnesses including cross-examination by management's representative. Enquiry recorded his findings that charges against workman are proved.

8. Learned counsel for Ist party Shri S. Pandey at the time of argument did not pointout any evidence in Enquiry proceeding. to substantiate his argument that findings of Enquiry Officer are not supported by evidence, how findings of Enquiry Officer are perverse. Considering the evidence of all 4 witnesses of management that cheques in name of Sitaram Vishwakarma, Balkar Singh were received. The cheque and amount was recovered from house of

workman. At the instance of workman, account in name of his brother was opened and amount of Rs. 35,000 was withdrawn from the account. It is clear that findings of Enquiry Officer are supported by evidence of mangement's witnesses. Charges alleged against workman are proved from evidence in Enquiry Proceedings. Therefore I record my finding in Point No. 1 in Affirmative.

9. Point No. 2 As per my findings on Point No. 1 that charges about theft, misappropriation of cheque of gratuity is proved, punishment of dismissal of workman is imposed. Considering the serious nature of misconduct proved against workman committing theft of check, opening account in name of his brother, withdrawing amount of Rs. 35,000 from the account, the punishment of dismissal imposed against workman cannot be said excessive or disproportionate. In my considered view, considering proved charges against workman, punishment of dismissal imposed against workman does not call for interference. I therefore record Point No. 1 in Affirmative.

10. In the result, award is passed as under:—

- (1) The action of the Dy. General Mnager, WCL, Pench Area, PO Parasia, Distt. Chhindwara in dismissing the services of Shri Ashok Mishra, *w.e.f.* 24.6.95 is legal and proper.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1578.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 246/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 27.07.2015 को प्राप्त हुआ था।

[सं. एल-22012/438/1997-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1578.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.246/98) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Limited, and their workmen, received by the Central Government on 27.07.2015.

[No. L-22012/438/1997-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
JABALPUR****No. CGIT/LC/R/246/98**

General Secretary,

P.K.K.K.K. Sangh, PO Damua,

Distt. Chhindwara (MP)

...Workman/Union

Versus

Sub Area Manager,

Datla Sub Area of WCL,

PO Ghorawari,

Distt. Chhindwara (MP)

...Management

AWARD

Passed on this 24th day of June 2015

1. As per letter dated 5-11-1998 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/438/97-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Datla Sub Area of WCL, Kanhan Area PO Ghorawari, Distt. Chhindwara in not promoting Shri M.L. Chourasia, Clerk Grade II, Datla Sub Area of WCL to the post of Clerk Grade-I and also subsequent promotion to Special Grade Clerk in line is justified? If not, to what relief is the workman entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5 to 15 though General Secretary of Union. Case of Ist party is that workman Shri M.L. Chourasia was appointed on 1-3-76 at Chikalmau colliery of WCL, Kanhan Area as General Mazdoor. He was promoted on post of Clerk Grade II on 1-3-78. Workman was recommended to General Manager, Kanhan Area for promotion of clerk Grade I as per Note dated 8-7-84. It is further submitted that workman was transferred from Chikalmau colliery to the office of Datla Sub Area of WCL. The Ist party further submits that the Dy. Chief Mining Engineer Datla group of mines admitted in note dated 20-2-87 that (i) related to

Accountant Technical Grade A. That in Kanhan Area, every except Datla have been provided Accountant, the post is lying vacant on account of his transfer, (ii) there is requirement of one special Grade Clerk in Dy. CME Office. Previously there was one special Grade Clerk Mr. K.B.S. Chouhan who has been transferred to Area store in the month of October 84, Shri S.P. Singh Special Grade posted at Group Account Office, (iv) Datla group has not been provided any steno, (iv) at Datla group there is requirement of 3 No. clerk Grade I. Ist party also referred to notes pertaining to stenographer, Sr. P.L. Clerk Grade I, Accounts/Audit Clerk, Grade I General clerk who will maintain daily production report keeping of the stationeries including receipt and issue.

3. That management constituted DPC to examine claim of Shri M.L. Choursia for his promotion from clerical grade II to clerical Grade I. after having lapse of 11 years 5 months, the workman has been promoted on the job of clerical Grade I. It is reiterated that management had granted promotion to Shri Onkar Bisender S/o Babulal, Shri Mohanlal Barmaiya, Shri O.P. Srivastava juniors to the workman. That workman joined service in WCL in 1-3-76 after nationalization of coal mines. It is submitted that right, title and interest were transferred and vested in the Central Government. The nomenclature, job description and categorization of coal employees is part of the NCWA I to V. Bipartite agreements are binding.

4. The competent authority had agreed about delegation of powers. The decision of the Competent Authority on such recommendation would be final. In para-10 of the statement of claim, the details of service record of Shri M.L. Chourasia workman, Shri Onkar Bisender S/o Babulal, Shri Mohanlal Barmaiya, Shri O.P. Srivastava are given. The workman is senior as he was appointed on 1-3-78 and other persons are appointed subsequent to the workman. Ist party submits that Shri M.L. Chourasia was illegally denied promotion of the post of Clerk Grade I. That workman was eligible for said promotion from 8-7-84 be allowed.

5. IInd party filed Written Statement at page 23 to 31 opposing claim of the workman. It is submitted that workman claimed promotion from post of Clerk Grade II to post of Clerk Grade I. Workman is promoted as Clerk Grade I on 1-9-90. Therefore the reference has become infructuous. The dispute is raised after lapse of more than 12 years is belated and not tenable. That the dispute was raised by Kanhan Koyla Khadan Karmachari Sangh workman is not its member. The dispute raised by Union is not tenable. Workman was appointed on 1-3-76. He was promoted to Clerk Grade II on 1-3-78 and Clerk Grade I from 1-9-90. GS office considered cases for promotion of

eligible cases on 1-4-88. Thereafter DPC could not be held due to administrative reasons. The promotions were considered *w.r.t.* sanctioned vacancies. Workman was not recommended by DPC. Workman was working in Chikalmau colliery. Said mine was closed 15 years back. Workman was transferred to various collieries and lastly to Datla Sub Area Collieries. All adverse contentions of Ist party are denied. IInd party has quoted ratio held in various cases in support of his contention that claim of workman for promotion is not proper. Other employees were recommended for promotion by DPC, claim of workman is not justified.

6. Ist party submitted rejoinder at Page 33 to 41 reiterating is contentions in statement of claim.

7. As per ordersheet dated 10-12-2004, it is noticed that application for impleading Shri Onkar Bisender S/o Babulal, Shri Mohanlal Barmaiya, Shri O.P. Srivastava was allowed. Even after notice, they failed to appear in proceeding. They were proceeded *ex parte* as per ordersheet dated 18-5-05.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|---|--|
| (i) | Whether the action of the management of Datla Sub Area of WCL, Kanhan Area PO Ghorwari, Distt. Chhindwara in not promoting Shri M.L. Chourasia, Clerk Grade-II, Datla Sub Area of WCL to the post of Clerk Grade-I and also subsequent promotion to Special Grade Clerk in line is justified? | In Affirmative |
| (ii) | If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

9. Workman is claiming promotion from Clerk Grade II to Clerk Grade I from 8-7-84 alleging that junior employees are promoted. He was denied promotion illegally. IInd party submits that the claim under dispute is highly belated and same cannot be allowed. Citation relied on the point shall be considered at later part of the award.

10. Workman filed affidavit of his evidence supporting his contentions in statement of claim. That he was appointed as General Mazdoor on 1-3-76, he was promoted to Clerk Grade II on 1-3-78. That Shri Onkar Bisender S/o Babulal, Shri Mohanlal Barmaiya, Shri O.P. Srivastava junior to him were allowed promotion on 1-1-83, 22-4-84, & 1-4-88. Workman was denied promotion to the post of Clerk Grade I. They were promoted to Clerk Special Grade on 6-10-9, 29-1-92 & 8-12-95 overlooking his seniority. In his cross-examination, workman says he was member of INTUC Union. He did not remember when he joined said Kanhan Koyla Khadan Karmachari Sangh. The dispute was raised by INTUC Union. Said Union was convinced about the stand taken by the management. The dispute was not further prosecuted. He denies that taking help of other Union, the dispute was raised by him. He reiterates that Shri Onkar Bisender S/o Babulal, Shri Mohanlal Barmaiya, Shri O.P. Srivastava were junior to him the claimed promotion. The seniority is considered at Area Level and not at Company level. Workman admits that for promotion, vacant sanctioned post is necessary. Recommendation by DPC is also necessary. He was not recommended by DPC for promotion.

11. Management's witness Shri Indrajit Singh filed affidavit of evidence supporting contentions in Written Statement of the management. In his cross-examination, management's witness says workman was appointed on 1-3-76. He was acquainted with the workman. He did not know Shri Onkar Bisender, Shri Mohanlal Barmaiya, Shri O.P. Srivastava. The claim of workman for promotion to Clerk Grade I is from July 1984, the dispute is referred as per order dated 5-11-88. Workman has admitted in his cross-examination that INTUC Union has raised his dispute but on talk with management, the INTUC Union refused to raise the dispute. That workman raised dispute with the help of other Union in 1998. Learned counsel for Ist party Shri K.B. Singh submits that the dispute raised after long lapse of time is tenable. On the above point, reliance is placed on ratio held in.

"Case of Dy. CME/Sub Area Manager, Ram Nagar RO SECL, Shahdol *versus* Union of India and others reported in 2008(1) MPLJ-60. Their Lordship of full bench held belated claim giving rise to an industrial dispute can be referred by the appropriate Government if it finds that industrial dispute exists at the time of making the reference.

In case of National Engineering Industries Ltd. *versus* State of Rajasthan and others reported in 2000(1) SCC-371, their Lordship held Industrial Tribunal cannot examine the validity of a reference. Where pursuant to identical charters of demands made by several Unions, the management and a representative Union reached a conciliation settlement to be operative immediately after expiry of the previous settlement.

12. Learned counsel for IInd party Shri A.K. Shashi on above point relies on ratio held in

Case of A.J. Fernandis *versus* Divisional Manager, South Central Railway and others reported in 2001(1) SCC-240. Their Lordship dealing with delay and latches - application challenging the promotion of another employee after a period of 4 long years held liable to be dismissed.

In case of 1979 — Lab. I. C. 827. The ratio held that Tribunal cannot go beyond terms of reference have no direct bearing to the controversy between parties.

Another citation in case of Telecommunication Engineering Service Association and another *versus* Union of India and another reported in 1993-II-LLJ 585. Deals with provision seniority on large scale and consequential promotions claim for back wages on promotion can be allowed only from date of actual working on higher post.

The ratio held in the above case does not cover the controversy between parties. So far as claim of workman for promotion of Clerk Grade I is from 1984, the dispute is raised in 1998 is highly belated. Such claim cannot be accepted. Besides it, the workman was not recommended by DPC for promotion therefore the claim of workman for promotional post cannot be upheld. For above reasons, I record my finding in Point No. 1 in Affirmative.

13. In the result, award is passed as under:—

(1) The action of the management of Datla Sub Area of WCL, Kanhan Area PO Ghorawari, Distt. Chhindwara in not promoting Shri M.L. Chourasia, Clerk Grade-II, Datla Sub Area of WCL to the post of Clerk Grade-I and also subsequent promotion of Special Grade Clerk is legal and proper.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1579.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसईसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 192/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22012/356/1997-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1579.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 192/98) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of South Eastern Coalfields Limited, and their workmen, received by the Central Government on 27/07/2015.

[No. L-22012/356/1997-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/192/98

Shri M.L. Jain, ...Workman/Union

Executive Committee Member,

SKMS (AITUC),

Near Panchayati Mandir,

Shahdol (MP)

Versus

Sub Area Manager, ...Management

Rajnagar PO SECL,

PO Rajnagar colliery,

Distt. Shahdol (MP)

AWARD

Passed on this 29th day of June 2013

1. As per letter dated 19-8-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/356/97/IR(CM-II). The dispute under reference relates to:

“Whether the action of the Colliery Manager, Rajnagar R.O. Colliery of SECL in dismissing Shri Swamideen S/o Shri Shyamlal, Trammer/Explosive Carrier, Rajnagar 5/6 Incline from company services *w.e.f.* 4-12-96 is legal justified? If not, to what relief is the workman entitled?”

2. After receiving reference, notices were issued to the

parties. Workman filed statement of claim through Union at page 3/1 to 3/9. Case of IInd party workman is that the workman was engaged on 31-3-72. He was working under different capacity to the satisfaction of management. Chargesheet was issued to workman Swamideen on 7-4-96. During relevant period, workman was working as explosive career. His services were terminated by Colliery Manager from 4-12-96. The dispute was raised before ALC. The charges against workman were of habitual late attendance under clause 26.4. The absence from duty without sanctioned leave or overstaying beyond sanctioned leave under clause 26.30 of the standing orders. IInd party reiterated that chargesheet was not served on delinquent employee. The charges were not specific. The charges of poor attendance was not including in the misconduct enumerated under Clause 26 of the certified standing orders. That misconduct alleged under clause 26.30 did not arise. There was no question of overstaying the sanctioned leave. The absence of workman was on the ground of his ailment. Medical certificates were produced. That enquiry conducted against workman was false. Termination of workman was by way of victimization of management. Enquiry was conducted in violation of principles of natural justice. Workman could not cross-examine management's witness. The list of witnesses was not supplied to him. Enquiry Officer conducted enquiry with ulterior motive. Workman had completed 24 years continuous unblemished service. the punishment of dismissal imposed against him is illegal.

3. IInd party filed Written Statement at Page 10/1/ to 10/6 opposing claim of the workman. IInd party submits that it is Government company incorporated under section 617 of Companies Act 1956. 5-6 Incline are in Rajnagar Sub Area. Workman Swamideen was working as Trammer under 5-6 Incline of Rajnagar Sub Area. It is alleged that the workman was unauthorisely absent from duty. Chargesheet was issued to him, enquiry was conducted against workman, working days of workman are shown in para 12 of the Written Statement. Workman never informed employee about his illness. They have not applied for leave. His leave was never extended. Workman deliberately not attended his duties. Workman was declared fit by Medical Officer. Workman had participated in the enquiry. Charges issued against workmen were proper. Direct rules of Evidence Act are not applicable in the matter. It is denied that Competent Authority not applied his mind while imposing the punishment.

4. As per order dated 24-7-2013, enquiry conducted against workman is found legal.

5. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|-------|--|---------------------|
| (i) | Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) | Whether the punishment of dismissal imposed against workman is proper and legal? | In Negative |
| (iii) | If not, what relief the workman is entitled to? | As per final order. |

REASONS

6. As per order dated 24-7-13, enquiry is found legal. The question whether charges alleged against workman are proved needs to be decided from evidence in Enquiry Proceedings. Departmental Enquiry conducted against workman is found legal as workman had not examined himself to substantiate his contentions about enquiry conducted against him. As per document Exhibit M-1 charges against workman were of habitual absence from duty, absence from duty without sanctioned leave. Exhibit M-3 chargesheet shows attendance of workman only 48 days during the period 1-4-95 to 31-3-96. In Exhibit M-11, workman has claimed that he was admitted in hospital from 26-4-95 to 27-4-95. Workman had not produced any documents about his illness or treatment received by him. The perusal of Enquiry Report shows workman denied charges against him as per Exhibit M-1-C, Enquiry Proceedings dated 12-7-93. The Enquiry Officer recorded statement of workman himself instead of recording evidence of management's witnesses. Again statement of workman was recorded. Workman was subjected to interrogation. Workman did not produce documents about his illness or medical treatment. Without recording statement of any of the management's witnesses, Enquiry Officer submitted his findings and workman failed to produce documents about his illness. The charges against workman were held proved. As per Exhibit M-5 again workman was asked whether he was admitting charges against him. Then Management Representative was directed to produce his evidence. Enquiry Proceedings Page 8 shown that again workman was asked to lead evidence as he had denied the charges. The Enquiry Proceedings dated 3-6-96 page 9 again statement of workman was recorded and he shown his inability to produce documents about his illness. Statement of Management's Representative is recorded at Page 10. It refers to the charges against workman. The workman had worked 28

days in 1993, 53 days in 1994, 76 days in 1995 and did not work for a single days in 1996. Workman has failed to adduce any evidence on preliminary issue as well as other issues. The perusal of record of enquiry shows workman had not disputed his absence from duty. Only defence that because of illness, he could not attend duty is not supported by documents. Enquiry Officer in his report referred to the certificate issued by Summary Clerk & Incharge of Incline 5-6 is not found in the record of enquiry. Therefore the findings of Enquiry Officer is not supported by cogent evidence. Therefore I record my finding on Point No. 1 in Negative.

7. Point No. 2—In view of my finding in Point No. 2, the charge of unauthorized absence alleged against workman is proved, the punishment of dismissal is imposed against workman for unauthorized absence workman was in service of IInd party from 31-3-1972. He was terminated as per order dated 4-12-96. The length of service was not considered while imposing punishment. For unauthorized absence, punishment of dismissal from service overlooking his length of service appears excessive. Therefore punishment of dismissal is not proper and legal. Accordingly I record my finding in Point No. 2.

8. Point No. 3—As per finding on Point No. 2 punishment of dismissal imposed against workman overlooking length of his service from 1972 cannot be upheld. The punishment of dismissal therefore need to be modified to the punishment of compulsory retirement. Accordingly I record my finding in Point No. 3.

9. In the result, award is passed as under:—

(1) The action of the management of SECL in dismissing Shri Swamideen S/o Shri Shyamlal, Trammer/ Explosive Carrier, Rajnagar 5/6 Incline from company services *w.e.f.* 4-12-96 is not proper and legal.

(2) The punishment of dismissal is modified to compulsory retirement. Workman be allowed all retiral benefits.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1580.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 89/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22012/500/1996-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1580.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 89/98) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of South Eastern Coalfields Limited, and their workmen, received by the Central Government on 27/07/2015.

[No. L-22012/500/1996-IR(C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/89/98

General Secretary,

Chhattisgarh Khadan Karkhana Mazdoor Union,

Banki Mogra,

Distt. Balasapur

....Workman/Union

Versus

Dy. General Manager,

SECL, Banki Colliery,

Post Banki Colliery,

Distt. Bilaspur

...Management

AWARD

Passed on this 1st day of July, 2015

1. As per letter dated Nil by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947, 1947 as per Notification No. L-22012/500/96-IR (CM-II). The dispute under reference relates to:

"Whether the action of the management of SECL in retiring the workman Shri Bhanwar Sai, S/o Gulal, Ex-Conveyor Khalasi *w.e.f.* 17-7-96 by treating his date of birth as 1-7-36 instead of 2-1-43 is legal and proper? If so, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 2/1 to 2/3. Ist party workman submits since 1967, he was working in NDC Bank colliery as Mazdoor Category I. The signature of workman Bhanwar Sai was obtained in Form B Register by Dy. Suptd. of Mines. While preparing the Form B register, his age was shown 24 years at the time of his initial appointment on 2-1-67. On 2-7-87, the service excerpts were supplied to workman, his date of birth was recorded 2-1-43. Workman did not raise any objection to it. He was not worried about his age, according to which he would retire on 1-1-2003. In April 1995, workman was given his pay slip, his date of birth was recorded 17-7-36. His date of birth shown in pay slip was objectionable. Workman submitted application for correction of his date of birth. On 29-5-95, notice of retirement was issued to workman on 7-2-96 for his retirement on 11-7-96. It is reiterated that his application for correction of date of birth was not considered. Workman was retired from 17-7-96 instead of 11-7-76 as per notice. Workman reiterates his date of birth from 2-1-43 was corrected to 17-7-36 without any document. On corrected date of birth, he was retired from service. Workman prays that his retirement from 17-7-96 is illegal. He prays for his reinstatement.

3. IIn party filed Written Statement at page 5/1/ to 5/4 opposing claim of the workman. Initial appointment of workman from 2.1.67 is not disputed. IInd party submits that the date of birth of workman was recorded 17-7-36 and not 2-1-43. Any excerpts circulated to workman, his date of birth was recorded 2-1-43 by the mistake by the concerned clerk, it was clerical mistake. The workman was expected to substitute entry therein of his correct date of birth in his service excerpts. That in Form B Register adopted in 1976, date of birth of workman was shown 17-7-36. It is not fair on part of workman to file false claim assuming something in his favour. The claim is on basis of presumption and the error committed by clerk IInd party submits that claim of workman is not legal.

4. Union submitted rejoinder at Page 6/1/ to 6/2 reiterating his contentions in statement of claim. It is submitted that workman is illiterate, only he could sign. He could not write his date of birth. Workman was not supplied documents. Workman claims ignorance about those documents.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded each of them for the reasons as below:—

- | | | |
|------|---|---------------------------------------|
| (i) | Whether the action of management of SECL in retiring the workman Shri Bhanwar Sai, S/o Gulal, Ex-Conveyor Khalasi w.e.f. 17-7-96 by treating his date of birth as 1-7-36 instead of 2-1-43 is legal and proper? | In Affirmative |
| (ii) | If not, what relief the workman is entitled to?" | Workman is not entitled to any relief |

REASONS

6. Workman is challenging his retirement by management considering his date of birth 17-7-36 instead of 2-1-43. Workman filed affidavit in support of his claim covering his contentions in statement of claim. His initial appointment as General Mazdoor Category was 2-1-67. The rules for retirement were framed on 27-7-87, his service excerpts were supplied. His date of birth was recorded 2-1-43. That at time of his initial appointment on 2-1-67, his age was shown 24 years. In pay slip of April 95, his date of birth was shown 17-7-36. On basis of said date of birth he was retired from 17-7-96. Workman has produced certain documents. No care was taken to advice evidence to prove for proof of those documents by workman. I will deal with those documents at later part of award. workman in his cross-examination says his date of birth is 1-2-93. He did not have documents about his date of birth. he told his date of birth at the time of his appointment. He denies thump mark on Exhibit M-1. he denies that he was putting his thump mark in the earlier page. He admitted his photo on M-2 but denied his thump mark. Workman denied that his date of birth is 17-7-36 recorded at the time of his joining. Workman admits M-4 his pay slip. His date of birth was recorded as 1936. Thereafter he submitted application Exhibit W-3.

7. Management's witness Shri P.K. Jain failed affidavit of his evidence supporting contentions of management in Written Statement. That date of birth of workman was recorded 17-7-36 in Form B. copies is produced at Exhibit M-1, M-2. Service excerpts were served on workman by clerical mistake, date of birth was shown 2-1-43 instead of 17-7-36. As per I.I.No. 37 of NCWA-II, notice was displayed on notice board on 15-1-82 displaying date of birth of employee. The objections were invited withing 30 days. His date of birth was recorded 17-7-36. Workman was given fair reasonable opportunity to submit any complaint. Workman had not submitted complaint disputing his date of birth 17-7-36. the copies of documents Exhibit M-3, 4 are produced. The evidence of management's witness remained unchallenged as management's witness was not cross-examined by the workman.

8. Documents Exhibit W-1 is copy of service excerpts of workman his date of birth is mentioned 2-1-43, date of appointment is shown 2-1-67. In W-2, copy of pay slip for April 95, his date of birth is shown 17-7-36. Document W-3 is copy of application submitted by workman on 29-1-95 for correction of his date of birth. Documents W-5 was application submitted by Secretary of the Union for redressal of the grievances of the workman about his date of birth. Document W-9 is service excerpts of one Bansi loader. It is relevant for deciding controversy about date of birth of workman. workman has not produced documents of school leaving certificate or his date of birth recorded in public record.

9. Management produced document M-1 bearing thump impression of workman. date of birth of workman is recorded 17-7-36 Copy of form B register document M-2 bears photograph of the workman. he admitted his thump mark on said document, his date of birth is recorded 17-7-36. Genuiness of said document is not challenged. Document M-3 is produced by management shows in 1982, the objections were called from employees within 90 days about their date of birth. Name of workman was appearing at Sl. No. 209. His date of birth is shown 17-7-36. Copy of Form B register is enclosed with said document. The age of workman is not mentioned in it. The evidence of workman that at the time of his initial appointment, his age was 24 years is not supported by any document. In 1982, when objections were called, workman has not adduced any evidence why they have not submitted any objection at that time. His date of birth 17-7-96 in document M-3 produced by management. When date of birth of workman was shown 17-7-76 in Form B register and document M-3. Workman has not produced documents like school leaving certificate or any public document that his date of birth was 2-1-43. workman has failed to establish his date of birth as 2-1-43. His evidence is not sufficient to establish that action of management retiring workman from service considering his date of birth 17-7-36 is illegal. For absence of cogent evidence, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:—

- (1) The action of the management of SECL in retiring the workman Shri Bhanwar Sai, S.o Gulal, Ex-Conveyou Khalasi *w.e.f.* 17-7-96 by treating his date of birth as 1-7-36 instead of 2-1-43 is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1581.- औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल, के पंचाट संदर्भ संख्या 72/2005 को प्रकाशित करती है जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22012/312/2004-आई. आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. .1581.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes their award Ref. No. 72/2005 of the Cent. Govt. Indus. Tribunal-Cum-Labour Court ASANSOL as shown in the Annexure, in the industrial dispute between the management of Kalidaspur Project of M/s, ECL, and their workmen, received by the Central Government on 27/07/2015.

[No. L-22012/312/2004-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Shri Pramod Kumar Mishra,

Presiding Officer

REFERENCE NO. 72 OF 2005

PARTIES : The management of Kalidaspur Project of M/s. ECL
Vs.

Sri Bishnu Bouri

REPRESENTATIVES:

For the management: None

For the union (Workman): None

INDUSTRY: COAL

State: West Bengal

Dated: 10.07.2015

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and Sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India

through the Ministry of Labour *vide* its letter No. L-22012/312/2004-IR(CM-II) Dated 20.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Kalidaspur Project of M/s Eastern Coalfields Limited in dismissing Sh. Bishnu Bouri is legal and justified? If not, to what relief the concerned workman is entitled?"

Having received the order No. L-22012/312/2004-IR(CM-II) dated 20.07.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 72 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both the parties are absent.

On perusal of the case record I find that the union filed written statement on 25.10.2005 but the management neither appeared nor filed written statement so far. Union also neither appearing nor taking any step from 17.04.2006. Notice issued to the parties on 18.05.2009. Again notice was issued on 30.12.2011 after giving 14 opportunities. Then 5 dates were granted. Last notice was issued on 09.09.2014 and today is the 2nd date but none of the parties turned up. It seems to me that the union is now at all not interested to proceed with the case further. As such the case is closed and accordingly a 'No Dispute Award' May be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1582.-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय,

जबलपुर के पंचाट संदर्भ (संख्या 34/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22012/121/2004-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1582.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes their award (Ref. No. 34/05) of the Cent. Govt. Indus. Tribunal-Cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the Management of South Eastern Coalfields Limited, and their workmen, received by the Central Government on 27/07/2015.

[No. L-22012/121/2004-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/34/05

The President,

Samyukta Koyla Mazdoor Sangh (AITUC),

C/o Sanjay Mishra, Telephone Exchange,

PO Kotma Coliery,

Distt. Annuppur

...Workman/Union

Versus

Sub Area Manager,

Kotma Govinda Sub Area,

SECL, PO Kotma,

Distt. Annuppur

...Management

AWARD

Passed on this 29th day of June 2015

1. As per letter dated 13-5-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-22012/121/2004-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of Kotma/ Govinda Sub Area of SECL in not regularizing Shri Suresh Kumar Yadav S/o Shri Khemraj Yadav in the post of Tech. Lineman Helper, Category-II is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 7/1 to 7/3. Case of workman is that he was initially appointed as General Mazdoor in SECL on 18-11-91. He was employed as Electrical Helper Cat-II from 16.1.96. He was directed to report for duty to Suptd. Engineer Kotma colliery. Workman continuously worked as Electrical Helper Cat- II since 16-1-96. He was not paid difference of wages admissible for the post of Electrical Helper Cat-II. The settlement was arrived between workman and management. he was paid difference of wages from 96 to 98. Management stopped paying difference of wages though he was employed as Electrical Helper Cat-II. From 20-4-02, workman was directed to perform duties as Telephone Line Helper Cat-II in Kotma colliery. Workman was continuously working I said capacity. His request for regularization and payment of difference of wages was not accepted by management. It is reiterated that he was continuously working more than 190 days underground and 240 days surface duty on said post. He is entitled for regularization on said post. He also claims entitled for difference of wages. After continuous working for 3 days, workman was entitled for promotion to the post of Lineman Cat- IV and after completion of 3 years working on said post, he claims to be entitled to Sr. Line man Technical Grade B. accordingly workman is praying for regularization on the post of Cat-II from 1996 and Cat- IV from the year 1992 Sr.Lineman Grade B, Lineman Technical Grade B from 2002.

3. Management filed Written Statement at page 8/1 to 8/5 opposing claim of the workman. preliminary objection is raised that workman is claiming promotion from 16-1-96. The dispute is raised near 2005 is highly belated is no tenable. The terms and conditions of employees in SECL are covered by settlement under NCWA. The settlement provide promotional channel as per cadre scheme. The cadre scheme for ministerial staff are given in Appendix VIII-I circulated on 8-7-84. The promotion cannot be claimed as right, it is managerial function. workman was initially appointed as General Mazdoor Category I, he is still working in same category. Workman was never appointed as Telephone Line Helper CAT-II. It is reiterated that for purpose of granting promotion, DPC is constituted for considering eligibility of candidates. Only on recommendation of DPC, promotion are given to eligible candidates. Working of workman as Telephone Lineman Helper Cat-II doesnot give him right to the promotional post. At the time conciliation, there was settlement between workman and management. The difference of wages of

higher post were paid. Union agreed to withdraw demand for regularization. Workman is trying to take undue advantage to letters issued to him. The officers who issued letters have no authority to issue such letters. The letters were issued without approval of the Competent Authority. The workman cannot be allowed promotion violating the provisions of cadre scheme as it will create industrial unrest. Management cannot discriminate among its employees Management has no authority to take away right of other employees waiting chance for their promotions as per cadre scheme. Workman is not entitled to promotions/ regularization of the post claimed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|---|---------------------------------------|
| (i) | Whether the action of the management of Kotma/ Govinda Sub Area of SECL in not regularizing Shri Suresh Kumar Yadav S/o Shri Khemraj Yadav in the post of Tech. Lineman Helper, Category-II is legal and justified? | In Affirmative |
| (ii) | If not, what relief the workman is entitled to ?" | Workman is not entitled to any relief |

REASONS

5. Workman is claiming regularization to the post of lineman helper Category-II. However he failed to participate in reference proceeding. Workman has not adduced evidence in support of his claim. His evidence is closed on 23.10.2013. The document produced by workman and admitted by management Exhibit W-1 is officer order dated 16.1.96 workman was directed to report for further duties to suptd. Engineer Kotma colliery, W-2 is letter issued by Dy. Regional Manager, Kotma Mines. Workman was working on post of General Mazdoor as per settlement with the management. Difference of wages of higher post are paid for 96 to 98. Exhibit W-3 is copy of settlement relating to payment of difference of wages. To working days are shown in it. Exhibit W-4 is copy of order dated 20.4.02. Exhibit W-5 is forwarding letter for approval to regularization of the workman submitted by Sub Area Manager, Kotma Mines.

6. Management has produced cadre scheme. Management filed affidavit of witness Shri R.K. Sharma

supporting his contentions. His evidence remained unchallenged. Workman has failed to adduce evidence. Therefore claim of workman for regularization is not supported by evidence. The action of the management cannot be said illegal. For above reasons, I record my finding in Point No. 1 in Affirmative.

7. In the result, award is passed as under:—

(1) The action of the management of Kotma/Govinda Sub-Area of SECL in not regularizing Shri Suresh Kumar Yadav S/o Shri Khemraj yadav in the post of Tech. Lineman Helper, Category-II is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 जुलाई, 2015

का.आ.1583.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 80/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/07/2015 को प्राप्त हुआ था।

[सं. एल-22012/308/2003-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th July, 2015

S.O. 1583.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.80/04) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 27/07/2015.

[No.L-22012/308/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/80/04

Shri Brij Lal S/o Shri Madar Das,

R/o Kabir Nagar, Basna,

Distt. Mahasamund

Chhattisgarh.

...Workman

Versus

District Manager,

Food Corporation of India,

Madina Manzil,

Kutchery Chowk,

Raipur (C.G).

Regional Manager

FCI. Telibandha,

Near Ring Road,

Raipur (CG)

...Management

AWARD

Passed on this 18th day of June, 2015

1. As per letter dated 30.6.2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/308/2003-IR (CM-II). The dispute under reference relates to:

“Whether the punishment of removal from services awarded to Shri Brij Lal Das, Assistant Grade-II *vide* Order No. V & S/4(23) RYP/96-Vol. IV dated 7.3.2001 by the Disciplinary Authority/Sr. Regional Manager, Food Corporation of India, Bhopal is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 5/1 to 5/9. Case of Workman is that he was initially appointed as Assistant Grade III by FCI in 1973. Considering his excellent work, he was promoted as Assistant Gr. II in 1992. He worked at different depots. He put about 21 years service in one depot at Basna. His service record was excellent, any punishment was not imposed against him. Sr. Regional Manager has power to take building on rent for godown purpose. For purpose of obtaining the godown, the Senior Regional Manager and his associates inspect the building and it found fit, necessary agreement is executed between the owner and the management of

FCI. The building used for godown is owned by Tanwani Trading Co. was taken for godown for the FCI, the agreement was executed. There were 5 numbers of godowns with Kalinga Traders. All the godowns were in poor condition. The Godown No. 3 has only one wooden door and another entrance covered only half tin and half with wire mesh. Godown No. 4 had only two entrance without doors. One gate was found opening in the mid and another outside. FCI management did not provide any watch and guard on those godowns. During the relevant period, Shri P.S. Rajputh was holding post of Assistant Manager. He was overall in-charge of the godown. Shri K.K. Thakur T.A. Grade I, M.V. Rao TA Grade I (Purchase), and others were working in shifts. Grains are received by Depot In-charge and TA (Purchase), entries were made by them in relevant record. Goods were stacked in godown. Physical verification was done time to time and no shortage of food grain was found. Physical Verification Committee of Zonal Office, Bombay on verification did not found any shortage. It is further submitted that the weighment is godown at the time of acceptance and storage of rice bags were done by AG-III. Many times Shri Rao TA (Purchase) used to get the wage check memos prepared by millers themselves and bring to workman in depot office for his signature. Workman being along couldnot supervise operations at all godowns in person. He relied Mr. Rao.

3. M/s. Kalinga Traders has taken mill on lease basis wanted to leave the place, its intimation was given to District Office, Raipur. Between 16.11.94 to 29.4.95, the preservation was assigned to Shri K.K. Thakur TA Grade I. Shri Ramji Sharma Asstt. Manager who Joined Basna on 15.12.95 was assigned work job of supervision of procurement under levy at Basna. Workman further submits that it was decided to vacate the godown for shifting to the godown owned by FCI. During course of shifting the stacks, shortage of food grain was noticed. However no action was taken to find out the shortage of foodgrains. The charge-sheet was issued to him was replied. Workman has pleaded that Shri T.R. Palaha was appointed as Enquiry Officer. Without his consent, Shri D.R. Dharmik was appointed as Enquiry Officer. It is pleaded that enquiry was only paper work. He was not given opportunity of defence. Principles of natural justice were not followed. Enquiry Officer did not conduct enquiry fairly allowing proper opportunity for his defence. Defence Assistant was not allowed. It is reiterated that material documents were not supplied to him. Enquiry was not conducted properly. The findings of Enquiry Officer are perverse. Punishment of dismissal imposed on him is illegal. On such ground, workman prays for his reinstatement with consequential benefits.

4. IInd party filed Written Statement at page 6/1 to 6/15 opposing claim of the workman. IInd party has pleaded that workman was initially appointed in 1973. He was

promoted as Assistant Grade II in 1992. Workman was posted as depot in-charge at Basna Depot in 1994-95. Workman committed gross misconduct accepting short number of bags and while accepting the delivery of levy rice from various millers traders in connivance with Shri M.V. Rao TA Grade I and stored in Katangi godown to give undue benefits to the parties for his personal gains and committed various irregularities. He was found responsible for shortage of 1592 bags rice causing loss of Rs. 10,00,000/- to FCI, It is reiterated that in connivance with Shri Rao, less weighed bags were accepted which resulted in abnormal storage losses. That FCI suffered loss of Rs. 10,03,099.94 charge sheet was issued to workman on 6.8.98 as per Regulation 58 of FCI (Staff) Regulations 1971. Workman submitted reply to charge sheet on 6.8.98. Shri N.K. Kesharwani was appointed as Presenting Officer and Shri B.R. Dharmik as Enquiry Officer. Enquiry was conducted giving opportunity for his defence. Enquiry officer submitted his report on 14.9.00 holding charges against workman proved. Enquiry was properly conducted. Considering report of Enquiry Officer, punishment of removal was imposed against workman. The appeal preferred by workman was dismissed on 29.11.01. The contentions of workman about enquiry conducted illegally by Enquiry Officer are denied. That only after proper inspection conducted in presence of workman on his consent, written proposal for godown hired by FCI were accepted. Workman was supposed to point out discrepancies in the godown in his possession. Workman was responsible for maintenance of stock accounts and proper preservation of food grains. It is denied that the stock were received by TA Grade I, AG III. Workman was custodian, in-charge of food grains. Workman was responsible for storing stock in systematic manner leaving proper space for variation and to take proper treatment. The reported shortage of food grains has been inspected and disciplinary proceedings as per provisions of FCI Regulations 1971 was initiated. Workman was given proper opportunity for his defence. Whole enquiry was conducted as per rules. Violation of principles of natural justice is denied. The contentions of workman that he was assured by the higher officers that he would be let off after completion of the formalities of the enquiry is denied. In Para 30 of the written statement, IInd party has given the details of the Enquiry Proceedings allowing opportunity for defence to the workman. It is reiterated that shortage of 1237 bags of P.B. Common Rice 275+80 bags of P.B. Fine Rice in the godown was suffered. That the punishment of dismissal is proper. IInd party submits that claim of workman is not justified.

As per order dated 5.3.2012, enquiry conducted against workman is found proper and legal.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|---|---------------------------------------|
| (i) | Whether the charges alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) | Whether the punishment of removal imposed against workman is proper and legal? | In Affirmative |
| (ii) | If not, what relief the workman is entitled to?" | Workman is not entitled to any relief |

REASONS

7. As stated above, enquiry conducted against workman is found legal and proper, question remains for decision is as to whether charges alleged against workman are proved from evidence in Enquiry Proceedings. Whether punishment of removal imposed against workman is proper and legal. Ist point needs to be decided considering evidence in Enquiry Proceedings. Exhibit M-1 produced by IInd party is memorandum/articles of charges. The charges against workman relates to accepting 291 bags of husk, dust and dirt instead of sound rice causing loss of Rs. 1,84,503.11. Article No. 2 relates to accepting less number of bags of rice as mentioned in records at the time of delivery of rice stock resulting in shortage of 1595 bags rice causing loss of Rs. 10,03,099.94. Article No. 3 relates to workman in connivance with Shri M.V. Rao TA-I accepted less weight bags as recorded in booked of account resulting to loss to the tune of Rs. 3,18,614.55. Article No. 4 relates to while working at Basna depot during 94-95 failed to supervise the stacking operations at the time of acceptance of delivery when stacking was made at Kalangi godown resulting wherein no timely technical treatment was provided etc. Article No. 5 is during 1994-95, workman failed to report factual position/condition about hiring of all the Kalangi godowns in view of security and storage worthy before hiring at Basna as per FCI norms. Management's witness Shri R.G. Tailor Dy. Manager in his evidence has stated that Exhibit P-1 which is report of investigation about misappropriation of rice stocks at Kalinga Rice Mill Premises godowns, Basna and planting of bags filled with husk, dust and dirt in godown No. 1 of Kalinga Rice Mill, Basna. The report was signed by him on 12.7.96 and its enclosures bears his signature. The report relates to shortage of 1237 full bags rice and PB Fine numbering 275 bags. During investigation, 291 bags filled with husk, dust, dirt was found in stack No. 1/5 & 1/6 in Kalinga godown. Rice in 5 godowns in Kalinga godown were not found according to the declaration given by workman, depot

in-charge. Exhibit P-5 was letter of workman addressed to police incharge about shifting of 80 bags rice noticed on 27.3.96. In his cross-examination, management's witness says that godown were hired by Depot In-charge, Basna as per hiring proposals forms and handing and taking over forms. Copies of undertakings which are part of proposal forms for hiring the godown refers to certain condition of FCI. In his further cross-examination, 291 bags filled with husk. Dust etc is part and parcel of the food grain stocks held in the Kalinga godown premises. 291 bags filled with husk etc were found physically in godowns but at the time of arriving net shortage of full bag rice these were not taken into account and net shortages of full bags rice in total 1512. 1512 shortage of 80 bags rice were attributed by the in-charge to a theft case for which FIR was lodged. In the evidence of management's witness, workman was depot in-charge was not challenged. Management's witness Shri Ramji Sharma in his evidence says that when he joined Basna depot, the position of Kalinga godown was absolutely packed without leaving any alleys and the stacks was touching roof of godown. It was only the door which could possibly be opened for entry in the godowns. At the time of dispatch from the packed godown the bags filled with husk, dust etc were noticed from stack No. 1/5, 1/6. After his joining the matter was reported to District Manager, Raipur. His further evidence is devoted about inspection of godown by Shri G.P. Tiwari on 11.1.1996 with great difficulty both officer could enter the godown and observe that the godown with full of stocks and infested with heavy Khapra and advised to the OC staff of the depot. His further evidence is devoted on the point that on 310-6-96, stocks were removed from godown for Mandirhasud. Workman noticed the bag filled with husk. He reported said incident to Shri Ramji Sharma. The despatches were suspended and immediately the matter was reported to the DO, Raipur by Shri Ramji Sharma. In his cross-examination, above witness of management says that his statement was recorded by Inspection Officer. He denies that his statement was recorded under pressure. That during the period Zonal PV squad conducted the PV, he was on leave from 16.12.95. He received message that his father at native place was hospitalized. He was posted at Basna. He was also directed to look after depot at Sarai and Basna.

8. The evidence of management's witness Shri P.S. Rajput is on the point during course of his inspection, it was found that there was no alleyways left while stacking. At that time Shri M.V. Rao, TA-I was posted at Kalinga Rice Mill Godown premises, Basna. He was assigned duty of procurement of rice at Basna. In his cross-examination, he says there was no official order to look after the work of AM(OC). However District Manager has verbally given orders to look after work of AM(D) in addition to AM(OC). In his statement,

management's witness Shri R.L. Tiwari says that against storage capacity, godown hired from Private party *i.e.* 6200 MTs, the storage of food grains was at this centre 9395 MTs up to 7.3.95. Management's witness Shri D.R. Thakur AG-III in his evidence says that he was assigned duty of payment of stocks received in the department. He never signed the cheque memorandum. Rice stocks being received at the depot were machine stitched doubled line bearing marking of 95 kg net. The check memo bears the signature of Shri B.L. Das and others including representative of contractor. His evidence is not shattered in his cross-examination. Management's witness also examined witness Shri P.B. Pandey, Vijendra Singh, A.K. Pachori. Learned counsel for workman Shri A.K. Shashi did not point out evidence of any of the management's witness during course of his argument including the evidence of defence witnesses in support of his argument that charges alleged against workman could not be proved from evidence in Enquiry Proceedings. The evidence on record discussed above supports contentions of management *w.r.t.* the charges alleged against workman. in Enquiry Proceedings. That burden of proof is not as required as in criminal cases, charges should be proved beyond reasonable doubt. The notes of argument submitted by learned counsel for IInd party Shri S. Pandey supporting the charges against workman are proved from evidence in Enquiry Proceedings. The findings of Enquiry Officer are supported by evidence. It cannot be said that findings of Enquiry Officer are not supported by any evidence. Therefore I do not find substance in the argument advanced by Shri A.K. Shashi. For above reasons, I record my finding in Point No.1 in Affirmative.

9. Point No.2 In view of my finding in Point No.1 charges alleged against workman are proved, question remains to be considered is whether punishment of removal against workman is proper and legal. The charges alleged against workman relate to shortage of huge quantity of rice of various categories causing loss more than Rs.10 lakhs. Ist party was incharge of godown at Basna depot is not shattered in cross-examination of any of the witnesses. Charges proved against workman are of serious nature. The punishment of removal imposed against workman appears justified. no interference in the matter of punishment would be justified. For above reasons, I record my finding in Point No. 2 in Affirmative.

10. In the result, award is passed as under:—

- (1) The punishment of removal from services awarded to Shri Brij Lal Das, Assistant Grade-II by the management of Food Corporation of India, Bhopal is legal and proper.
- (2) Workman is not entitled to any relief.
- (3) Parties to bear their respective costs.

R. B. PATLE, Presiding Officer

नई दिल्ली, 29 जुलाई, 2015

का०आ० 1584.- औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं.60/09) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2015 को प्राप्त हुआ था।

[सं एल-12011/13/2009-आई आर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 29th July, 2015

S.O.1584.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government here by publishes the Award (Ref. 60/09) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workman, received by the Central Government on 29/07/2015.

[No. L-12011/13/2009-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO.CGIT/LC/R/60/09

General Secretary,
Prathadith Karamchari Kalyan Manch,
F-1, Tripti Vihar,
Opp Engineering College,
Ujjain

.....Workman/Union

Versus

Branch Manager,
Bank of India,
Shujalpur Mandi Branch,
Distt. Shujalpur (MP)

.....Management

AWARD

Passed on this 3rd day of July, 2015

1. As per letter dated 29.4.2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12011/13/2009-IR(B-II). The dispute under reference relates to:

"Whether Shri Tejprakash Choudhary is entitled for payment of difference of wages from 1-1-86 to

1-12-98 as per Bipartite Settlement? To what relief he is entitled to get?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through General Secretary of Union. The case of 1st party Union is that workman Shri Tej Prakash Choudhary was engaged as peon in Sujalpur branch from 1-6-86 by Branch Manager Shri Mani. He was working more than 8 hours in a day. He worked more than 240 days continuously in the year. Workman was initially paid wages Rs.30 per day. The wages were increased to Rs.60, 70, 80, 90, 100, 110 & 120 per day. Workman challenged his termination for violation of Section 25-F of ID Act in R/308/02. Said reference is pending. Workman submits that he was continuously working from 1-6-86 to 1-12-98. He was paid scale wages as per Bipartite Settlements. As per Bipartite settlement No. IV dated 17-9-84, the pay scale of substaff was increased from Rs.430 to 790, in 5th settlement dated 10-4-89 pay was increased from Rs.815 to 1510, in 6th settlement dated 14-2-95 pay was increased from Rs. 1600 to 3020, in 7th settlement dated 27-3-00 pay was increased from Rs.2750 to 5850 & in 8th settlement dated 2-6-05 pay was increased from Rs.4060 to 7560. Those settlements were implemented from 1-11-82, 1-11-87, 1-11-92, 1-11-97 & 1-11-02 respectively. Workman submits that he possess eligibility for scale wages of subordinate staff. The peon working on daily wages in State Bank of India, Bank of Maharashtra get arrear as per scale wages. Workman submits that on 1-6-86 to 1-12-98, he was working under different Branch Managers Shri Mani, Nazmi, Saraiya, Gurnani, Somani, Arora and Jain. It is reiterated that the workman is entitled for arrears as per pay scale fixed in IVth to VIIIth Bipartite settlement.

3. IInd party submitted Written Statement opposing claim of the workman 2nd party submits that R/308/99 was fixed for hearing on 20-10-08, the next date was fixed 19-4-2011 for cross-examination of workman. Meantime workman raised present dispute claiming difference of wages. Workman was never appointed in any cadre by the Bank. He is not workman defined under ID Act. No industrial dispute exists between management and workman. Management has recruitment rules for appointment of staff. Any appointment without following recruitment rules is illegal. Workman was engaged as casual labour on daily wages in leave vacancy of permanent staff. Workman have never completed 240 days continuous service during any of the year. Workman was paid his remuneration commensurate to his work @ rate in locality. The pay scale are given to the regular employees of the Bank. Pay scales are not applicable to casual labours. Pay scales as per bipartite settlement are not applicable to the labours engaged on daily labours. All adverse contentions of workman are denied. It is submitted that bipartite settlement are executed between Indian Bank Association and representative of Union those settlements are applicable only to the regular employees. It is denied that chapter 16

of Sastry Award deals with categorization of bank employees. Workman was not appointed following recruitment policy of the Bank. He is not entitled to difference of wages. Representative of workman Shri Ram Nagwanshi claims to be General Secretary. He is not employee of the Bank, he is not competent to raise the dispute.

4. Workman filed rejoinder reiterating its contentions in statement of claim and documents are also produced.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether Shri Tejprakash Choudhary is entitled for payment of difference of wages from 1-1-86 to 1-12-98 as per Bipartite Settlement?”	In Negative
“(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

6. The terms of reference relates to whether the workman Tejprakash Choudhary is entitled for payment of difference of wages as per Bipartite settlement. Management has denied the claim on the ground that workman was not appointed following recruitment rules. He not completed 240 days continuous service. Workman was engaged as casual labour during leave vacancy of regular employee.

7. Workman filed affidavit of his evidence. However representative of workman Shri R. Nagwanshi submitted in writing that workman is not desiring to adduce oral evidence. Workman has not appeared for his cross-examination. Evidence of workman was closed on 11-8-2014. Management also not adduced evidence though the case was fixed for evidence of management on December 2014. As such it is clear that both parties have not adduced evidence to substantiate their contentions. At the time of hearing. Shri R. Nagwanshi Union representative drawn my attention to pay scale revised in 4th to 7th bipartite settlement pointing out documents produced by 1st party. Workman has not adduced any evidence to prove those documents. IInd party has not admitted the documents about settlement No. 4 to 7 and the pay scales revised therein. When workman has not appeared for his cross-examination as he has failed to adduce evidence to prove the documents produced by him, claim of workman is not supported by any thread of evidence. When claim of workman is denied and workman failed to adduce evidence in support of claim or revised pay scale, the claim of workman is not proved.

8. Learned counsel for IInd party Shri A.K. Shashi relies on ratio held in

Case of Hindustan Petroleum Corporation Ltd *versus* Ashok Ranghba Ambre reported in 2008(2) SCC 717. Their Lordship held setting aside of illegal termination as violative of Section 25 F does not necessarily follow that workman is entitled to status of permanency and claim of regular pay scales and other benefits based on permanency.

Next reliance is placed in case of Indian Drugs and Pharmaceuticals Ltd. *Versus* their workmen reported in 2007(1) SCC408. In para-14 of the judgment their Lordship observed the distinction between a temporary employee and a permanent employee is well settled. Whereas a permanent employee has a right to the post, a temporary employee has no right to the post.

In para-15 of the judgment their Lordship observed similarly no direction can be given that a daily wage employee should be paid salary of a regular employee *vide* state of Haryana *versus* Tilak Raj.

Ist party workman has not adduced evidence to substantiate his claim. Its pleadings are clear that he was not engaged following recruitment process therefore the claim for scale wages as per settlement IV to VIII cannot be upheld.

9. In the result, award is passed as under:—

- (1) The workman Shri Tejprakash Choudhary is not entitled for payment of difference of wages from 1-1-86 to 1-12-98 as per Bipartite Settlement.
- (2) Parties to bear their own costs.

R.B. PATLE, Presiding Officer

नई दिल्ली, 29 जुलाई, 2015

कांआ 1585.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद के पंचाट (संदर्भ सं. 27/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 29.07.2015 को प्राप्त हुआ था।

[सं एल-12012/01/2010-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 29th July, 2015

S.O. 1585.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workman, received by the Central Government on 29/07/2015.

[No. L-12012/01/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947.

Reference No. 27 of 2010

Employer in relation to the management of Bank of India, Ranchi

AND

Their Workman

PRESENT

Sri R.K. Saran, Presiding Officer

APPEARANCES:

For the Employers	: Sri D.K. Verma, Advocate.
For the Workman	: Sri D. Mukherjee, Rep
State	: Jharkhand
Industry	: Banking
Dated	: 16/7/2015

AWARD

By order No. L-12012/01/2010-IR(B-II), dated 10/3/2010, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Bank of India, Ranchi Zonal Office in compulsorily retiring Mr. Jib Narayan Jha, Ex-Clerk-Cashier from service *w.e.f.* 14.11.2008 is legal and justified? What relief the workman is entitled?"

2. The case is received from the Ministry of Labour on 25.03.2010. After receipt of reference, both parties are noticed. The Workman files their written statement on 06.05.2010. And the management files their written statement-cum-rejoinder on 28.09.2011. Document of management marked as M-1 to M-5.

3. During the pendency of this case the concerned workman died and Smt. Pusp Lata Jha W/o deceased workman is substituted.

4. The workman has been retired compulsory in the capacity of cashier, he could not, accounted for a sum of Rs. 81,000/- and on detection, he deposited the same.

5. The enquiry conducted. Workman took part. During the enquiry, charges of misconduct is proved, and Rs. 81,000/-

is returned by the workman concerned. During the enquiry, concerned workman wrote a letter dated 17.01.2008 that he admitted his charges and misconduct, marked in as Ext. M-1 Series and also says he will not repeat the same.

6. The domestic enquiry accepted by the workman as fair and proper.

7. In bank where public money is dealt, any sorts of misdemeanor is not tolerated. The bank management however not imposed harshest punishment like dismissal. He only allowed the workman to retire compulsorily with all retirement benefits.

8. In the Opinion of this Tribunal that the action against the workman is neither harsh not inhuman.

9. Considering the facts and circumstance of this case, I hold that, the action of the management of Bank of India, Ranchi, Zonal Office in compulsorily retiring Mr. Jib Narayan Jha, Ex-Clerk-Cashier from service *w.e.f.* 14.11.2008 is justified. Hence he is not entitled to get any relief in this reference.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 29 जुलाई, 2015

कांआ 1586.-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 125/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2015 को प्राप्त हुआ था।

[सं एल-12012/175/98-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 29th July, 2015

S.O.1586.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 125/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen, received by the Central Government on 29/07/2015.

[No. L-12012/175/98-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR NO. CGIT/LC/R/125/99

Shri Dilip Kumar Sharma,

S/o Shri Ramchandra Sharma

R/o Village Ghinoda,

Tehsil Khachrod,

Distt. Ujjain (MP)

...Workman

Versus

Asstt. General Manager,
UCO Bank, Regional Office,
Arera Colony,
Bhopal.

...Management

AWARD

Passed on this 7th day of July, 2015

1. As per letter dated 23-3-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/175/98-IR (B-II). The dispute under reference relates to:

“Whether the action of the management of UCO Bank in terminating the services of Shri Dilip Kumar Sharma *w.e.f.* 15-5-97 is justified? If not, what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through General Secretary of Union at page 2/1 to 2/5. Case of Ist party workman is Branch Manager engaged Ist party workman for sweeping, cleaning work on 25-10-89. Workman was paid wages Rs. 18/- per day. The wages were increased to Rs. 25, 65 per day by the subsequent Branch Managers. Workman was doing cleaning, sweeping work honestly. He was also doing work of peon. Separate wages were paid for said work. Workman had requested management for payment of bonus and permanent appointment. Management without considering his demands terminated his services from 10-5-97.

3. Workman submits that he completed more than 240 days continuous service. He is eligible for regular appointment. Workman had completed continuous service more than 7 years. His services were terminated without issuing 3 months notice. Other labours engaged with him are continued in service. IInd party has not followed section 25-F of ID Act, Para 507, 524 of Sastry Award. Award was not paid retrechment compensation. IInd party not violated principles of first come last go and thereby violated Section 25-G, N of ID Act. It is also alleged that after termination of his service on 10-5-97, IInd party has engaged other persons on daily wages. Workman was not given opportunity of re-employment thereby IInd party violated Section 25 H of ID Act. Workman was not paid bonus under Section 8 of Payment of Bonus Act. Union has raised complaint to ALC, Indore. After hearing of the matter, bonus of Rs. 4541/- was paid by them on 13-3-99. The workman had complained that the bonus due was Rs. 5353.35. He was paid less bonus of Rs. 812.35. Thereafter said matter was pending for hearing. On such contentions, workman is praying for his reinstatement with consequential benefits.

4. IInd party filed Written Statement at Page 5/1 to 5/5 opposing claim of the workman. Preliminary objection is raised by IInd party. That General Secretary, Dainik Vetan Bhogi Bank Karmachari Sangathan Union raised dispute is not authorized as per the rules, therefore reference is not tenable. That Bank has its recruitment rules. Manager has no authority or power of appointment of regular employees. Workman was engaged on daily wages as per exigencies. No work no pay was followed. The wages for the working days were paid to workman at local collector rate. Workman was free to attend duties which were casual in nature. Workman was doing job of contingent nature. He was not engaged as cleaner, waterman in first half, remaining half was not working against the vacant post. It is reiterated that workman engaged for casual work as per exigencies. It is denied that workman was terminated as he raised demand of regularization and bonus. It is denied that workman was working more than 240 days during each of the year. Workman was not entitled for regularization of his service. Violation of Section 25-F,G,H is denied by IInd party.

5. In additional submissions, IInd party submits that for the low profitability and the manpower deployment in the Bank not being optimal, the Government of India, Financial Department and Reserve Bank of India have imposed a complete ban on further recruitment of staff and even replacement for retirements and resignations. The Bank is forced to take policy decision to curtail staff for avoiding the loss. The claim of workman for regularization is not tenable.

6. Ist party workman filed rejoinder reiterating his contentions in statement of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether the action of the management of UCO Bank in terminating the services of Shri Dilip Kumar Sharma w.e.f. 15.5.97 is justified?”	In negative
“(ii) If not, what relief the workman is entitled to?”	As per final order.

REASONS

8. Workman is challenging termination of his service for violation of Section 25-F,G,H of ID Act. Claim of workman is denied by management on the ground that workman was engaged as casual labour. He not completed 240 days continuous service during any of the year.

9. Workman filed affidavit of evidence supporting his claim in statement of claim. In his affidavit of evidence, workman says that he was engaged on daily wages by Branch Manager from 25.10.89 on wages Rs. 80/- per day. That he completed more than 240 days continuous service. His services are terminated on 10.5.97 without notice, retrenchment compensation is not paid to him. In his cross-examination, workman says that he failed 10th standard. He was appointed after death of regular peon Shri Khet Singh. He admits that after death of Shri Khet Singh, his son was engaged for 3 months, thereafter he was engaged in the Bank. He was paid wages under debit voucher. In 1997, he was working at same place. His working days are shown in documents about payment of bonus produced on record. On 10.5.97, he was orally terminated. The order of termination was not given to him, that as per the payments made to him, he says he completed more than 240 days working. There is no denial by 2nd party in his cross-examination of workman that workman had not completed 240 day continuous service.

10. Management filed affidavit of evidence of witness Shri Sagarmal Sanwaria supporting contentions of management. That 1st party was not appointed against regular vacancy on vacant post as per recruitment policy of the Bank. Appointment letter was not issued to the workman. Attendance Register/Muster roll was not maintained. The engagement of workman was as per urgency. That workman did not furnish authentic evidence about his working from 25.10.89 to 12.5.97. Workman was considered for empanelment as per circular dated 19.10.89. Workman was not fulfilling criteria of employment, therefore his services were discontinued. Management's witness in his cross-examination says his affidavit is filed as per record, workman did not worked under him. He heard about workman working during emergency. Workman produced documents about payment of bonus, exgratia. As workman was not permanent employee, retrenchment notice was not issued to him.

11. Management's witness Shri Pannalal filed affidavit of his evidence. The witness states that workman was never appointed against vacant post following recruitment policy of the Bank. Muster roll was not maintained. Workman was engaged during urgency as daily wage labour. Workman had not completed 240 days continuous service preceding year of his termination. As per policy of the Bank, workman did not apply for absorption to the management. He could not be considered for empanelment, his name was not found in seniority list of daily wage

workers. Non-engagement cannot be said dismissal or retrenchment. In his cross-examination, management's witness says he was not working in Ghinoda branch during 1989 to 1997. He claims ignorance about the documents about payment of bonus. Workman had filed proceeding before Competent Authority for bonus. Management's witness admitted documents Exhibit W-1 and W-2. However he denied the documents about chart of working days. That Khet Singh working in Ghinoda branch had died. Workman was not given appointment letter. His attendance register was not maintained. Any documents about working days of workman are not produced. That he had discussed the matter related to workman with Retired Branch Manager Kukraj Vora. Workman was not issued termination notice. The witness claims ignorance payment of retrenchment compensation to workman. Management has not produced any documents about working days of workman. Management's witness admitted document Exhibit W-1, W-2 Exhibit W-1 relates to payment of bonus of Rs. 4541 to workman on 13.3.99. W-2 payment of bonus Rs. 7017 to workman on 4.4.99. Those documents corroborate evidence of workman that amount of bonus paid to him are incorrect. However the working days for which the bonus was paid is not shown in W-1, W-2.

12. 1st party produced documents Exhibit M-1 related to empanelment and absorption of persons engaged on daily wages. The terms of reference does not pertain to regularization therefore discussion of those rules for absorption of daily wage employees is not absolutely not necessary. Exhibit M-2 produced by 2nd party is about prohibition of empanelment of casual workers. Circular is issued dated 19.10.89. The evidence of workman that his services were terminated from 25.10.97 is not challenged. Management has absolutely not produced any documents about working days of workman, payment of wages to him, management's witnesses were not working in the branch at the relevant time. Both management's witnesses have no personal knowledge about the working of workman. The affidavit of evidence prepared on the basis of documents in the Bank, those documents are not produced by 2nd party. On other hand, workman was paid bonus as per Exhibit W-1, W-2, His evidence is corroborated about his working in the Bank. However the working days for which bonus is paid by Exhibit W-1, W-2 are not shown. Considering the evidence adduced by both parties as witnesses of the management have been no personal knowledge and evidence of workman is corroborated by documents Exhibit W-1, W-2, I find it proper to accept the evidence of workman that he completed 240 days continuous service preceding 12 months of his termination.

13. Learned counsel for 2nd party Shri Bhattacharjee during course of argument submits that workman has not discharged duty to prove more than 240 days during any of the year. Mr. Bhattacharjee relies on ratio held in.

Case of Karur Vysya Bank Employees Union Bangalore *versus* Presiding Officer, CGIT Bangalore reported in 1988 LAB.I.C. 1746. His Lordship of Karantaka High Court dealing with Section 2-A of ID Act-termination of Bank employee held services of person utilized intermittently to do certain work which arose only on certain occasions. Employment is of casual nature and not connected with work of Bank named Banking work connected therewith. Failure of employee to prove that he worked for 240 continuous days in a year. Provisions of Section 25-F not attracted.

In present case, as discussed above, evidence of workman is supported by document Exhibit W-1, W-2. Management's witness did not produced documents they had seen before filing their affidavit. Therefore the ratio held in the case cannot be applied to the case at hand. On the point of onus of proof, Shri Bhattacharjee relied on ratio held in case of

Rang Forest Officers *versus* S.T. Handimani reported in 2002-SCC(L&S) 367. Their Lordship held onus and manner of proof. Where workman claimed that he worked for more than 240 days in a year preceding his termination or discontinuation by the employer, it is for the claimant to lead evidence. That workman's affidavit was not sufficient evidence for that purpose.

In present case, evidence of workman is corroborated by document W-1, W-2. 2nd party has not produced any documents about working of the workman. Therefore the onus is discharged by workman. The burden of proof is discharged. The ratio held in the case does not advance the arguments by Shri Bhattacharjee.

Reliance is also placed in Case of Surendranagar district Panchayat *versus* Dahyabhai Amarsingh reported in 2006 (SCC) (L&S) 38 on the point of calling adverse inference was wrongly found. The scope of enquiry before Labour Court was confined to only twelve months preceding the date of termination to decide question of continuation of service for purpose of Section 25-F of ID Act.

In present case, though enquiry for violation of Section 25-F of ID Act is restricted to one year before termination, management has not produced any documents about working days. No reasons are given for the point. Therefore the ratio held in the case support the argument advanced by Shri Bhattacharjee. In the evidence discussed above and the legal position, I find no reason to disbelieve evidence of workman supported by document. The evidence of management's witnesses having no personal knowledge and not produced any documents cannot be accepted. Workman was terminated without notice. Retrenchment compensation was not paid to him. Therefore I record my finding in Point No. 1 in Negative.

14. Point No. 2-in view of my finding in Point No. 1 termination of 1st party is illegal for violation of

Section 25-F, G of ID Act, question remains for decision whether workman is entitled for reinstatement with back wages.

15. Shri Bhattacharjee relies on ratio held in Case of Union of India and Others *versus* Bishamber Dutt reported in 1997 SCC (L&S) 478. Their Lordship dealing with entitlement for regularization. The appointment on regular basis after selection according to rules held a condition precedent. That persons appointed on part time employees dehors the rules even though regularly working for a long time are not entitled to regularization.

The terms of reference pertains to legality of termination, regularization is not included in the reference therefore ratio held in the above cited case cannot be applied.

Reliance is also placed on ratio held between Secretary, State of Karnataka *versus* Umadevi reported in 2006-SCC(L&S) 753. Their Lordship dealing with casual Labour/Temporary employee status and rights of unequal bargaining power. Held such employees do not have any right to regular or permanent public employment further temporary, contractual, casual ad hoc or daily wage public employment must be deemed to be accepted by the employee concerned fully knowing the nature of it and the consequences flowing from it.

Workman in his cross-examination says that he was engaged on daily wages. He was not given appointment letter. His pleading and evidence does not show that he was appointed after following selection process. Workman was working during period 1988 to 97 but his appointment was not followed by selection process therefore the workmen could not be granted reinstatement with backwages.

16. Union Representative Shri R. Nagwanshi has produced copy of Award in R/180/00, 105/03, 27/04 passed by this Tribunal. Each case requires to be decided as per evidence adduced by the parties. The award cannot be treated as binding Precedent. The evidence in this case shows that the workman was not appointed following selection process. His termination is illegal for violation of Section 25-F of ID Act. Considering the working period from 1988 to 1997, compensation Rs. 2 Lakh would be appropriate Accordingly, I record my finding in Point No. 2.

17. In the result, award is passed as under:—

- (1) The action of the management of UCO Bank in terminating the services of Shri Dilip Kumar Sharma *w.e.f.* 15.5.97 is not proper and legal.
- (2) 2nd party is directed to pay compensation Rs. 2 Lakhs to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 29 जुलाई, 2015

का०आ० 1587.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चण्डीगढ़ के पंचाट (संदर्भ सं. 159/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2015 को प्राप्त हुआ था।

[सं एल-12012/66/2003-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi the 29th July, 2015

S.O. 1587.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 159/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 29/07/2015.

[No. L-12012/66/2003-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

**Case No. ID 159/2003. Reference No. L-12012/66/
2003-IR(B-II) dated 10.09.2003**

Shri Anil Kumar Rally

R/o C/o Shri N.D. Rally

102/13, Sastri Nagar,

Near Octroi Post, Kullu (HP).

....Workman

Versus

1. The Regional Manager,

Punjab National Bank,

Jail Road, Mandi (HP).

....Respondent

APPEARANCE:

For the Workman : Shri P.K. Longia Advocate

For the Management : Shri N.K. Zakhmi Advocate

AWARD

Passed on 14.07.2015

Government of India Ministry of Labour *vide*
Notification L-12012/66/2003-IR(B-II) dated 10.09.2003 has

referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Punjab National Bank giving compulsory retirement of Sh. Anil Kumar Rally Ex-clerk-cum-Cashier from service *w.e.f.* 1.3.99 is just and legal? If not, to what relief the concerned workman is entitled to and from which date?”

2. The workman filed claim statement in which he has pleaded that he was issued charge sheet by the management. He replied to the charge sheet but punishing authority without considering the reply appointed an Enquiry Officer. It is pleaded by the workman that enquiry was not conducted in fair and proper manner and proved the charges without appreciating the record. The Enquiry Officer also did not give any finding regarding responsibility for loss of record and not touched the crux of the charges but gave his finding on surmises and conjectures. It is also pleaded that during enquiry proceedings, original record like ledger sheet was not produced by the management despite the repeated request by the workman. It is also pleaded that charge sheet is also vague and there is no specific allegations against the workman and charge sheet was not issued by the disciplinary authority but by a senior manager who is subordinate of the disciplinary authority. The Enquiry Officer also not appreciated the statement of MW1 and MW2 who were responsible to ensure the account but the responsibility was shifted on the workman by the Enquiry Officer. It is also pleaded that as per Ex. M8 there is no entry of Rs. 10,000 on 15.06.95 and by no stretch of imagination this charge could be proved. It is also pleaded that there is no financial loss caused to the bank management as the whole amount has been deposited along with interest and the workman was having unblemished record. It is prayed by the workman that order dated 1.3.99 of compulsory retirement of workman may be quashed and he may be reinstated in service with continuity and full back wages.

3. The management filed reply. Preliminary objection has been taken that disciplinary action against the workman taken under the provisions of bipartite settlement and punishment was imposed upon him is commensurate with the gravity of the charges proved against the workman in duly conducted departmental enquiry in accordance with the principles of the natural justice and do not warrant any interference. On merits it is pleaded that fair and proper enquiry was held after framing the following charges:—

"While working at BO: Kullu, you created the following fictitious entries in your S/FA/C. No. S-48 and withdrew the amount on the dates given against each entry:—

Sl. No.	Entry created for Rs. Between the dates	Amount Withdrawn on
1.	2000/- (21.4.95 to 24.4.94)	24.4.95
2.	2000/- (4.5.95 to 9.9.95) (While officiating as C/I Evening Counter).	9.9.95
3.	1000/- (1.6.95 to 9.6.95)	
4.	4000/- (22.6.95 to 26.6.95)	

From the above facts it is clear that you defrauded the bank for Rs. 9000. It has been established that you have been tallying the balances fictitiously for the period from 4/95 to 9/95 in the Staff Ledger by altering the balances in the balance book.

Further you also created fictitious entry of Rs. 7000 in your OD A/C No. 2858 (Limit Rs. 95000 and withdraw the amount on different dates.

Later you raised the limit fictitiously from 9500 to Rs. 19500 by putting I before 9 on 07.06.1995 and created a fictitious entry of Rs. 10,000 in your OD Account No. 2858.

“On 15.6.95 you again created a fictitious entry of Rs. 10,000/- in the account and withdrew the amount. After that you again raised the limit fictitiously from 19,000 to 49,000. On 3.7.95 you deposited Rs. 30,000/- in the account and the remaining balance was adjusted on 7.7.95 from the proceeds of your Anupam, FDR for Rs. 10,000.”

4. It is also pleaded by the management that if this Tribunal comes to the conclusion that the enquiry is not fair, then Bank may be allowed to adduce the evidence before the Tribunal. On merits it is pleaded that Enquiry Officer was rightly appointed by the punishing authority and the enquiry was conducted in a fair and proper manner adhering to the principles of the natural justice. The workman was given punishment for his misconduct which was fully proved during departmental enquiry. It is also pleaded that charge sheet was rightly issued in terms of provisions of P.D. circular No. 1012 dated 13.4.87. It is prayed by the management that the claim of the workman being devoid of merit may be rejected.

5. The workman filed replication reiterating the claim made in the claim statement.

6. In evidence workman filed his affidavit. The management also filed affidavits in evidence. The management also placed on record documents from page 1 to 101 which consist of charge sheet, enquiry proceeding, enquiry report and documents relating to the appointment of Enquiry Officer.

7. My predecessor heard the arguments on fairness of enquiry and *vide* order dated 27.10.2010 held as follows:—

"Accordingly, I am of the view that a fair, proper and reasonable enquiry was conducted against the

workman and there has been no violation of any rules of the principle of natural justice. As stated earlier, that issue of perversity in decision making has been raised by the workman. So workman and the management both shall be at liberty to file/move/adduce any evidence on the following issues:—

- (1) Perversity in decision making by the Enquiry Officer, disciplinary authority or the appellate authority.
- (2) On the quantum of punishment."

8. The parties were afforded opportunity of evidence on the point 1 and 2 mentioned above. Workman in evidence tendered his affidavit as Ex. W1. In rebuttal, the management produced Shri T.R.Ranta Senior Manager PNB who tendered his affidavit Ex. M1 in evidence.

9. The learned counsel for the workman also filed written arguments.

10. I have heard the parties, gone through the evidence and record and also the case laws relied upon by the workman.

11. In written arguments, workman assailed the charge sheet stating that charge sheet is vague and the workman is not in a position to understand the charges. On merits also workman submitted that the workman never committed the alleged fraud. It is further submitted in written argument that the passed record of the work and conduct of the workman has not taken into consideration while awarding punishment as there is no adverse remark/entry prior to alleged incidents and the punishment is excessive and not commensurate with the misconduct. On the other hand learned counsel for the management submitted that this Tribunal has already held the enquiry fair and proper and now issue remains of perversity in decision making and on quantum of punishment on which the workman failed to point out any infirmity in the enquiry. The conclusion and enquiry report based on the evidence and documents produced during enquiry and the charges were fully proved against the workman and the punishment imposed was proportionate to the misconduct of the workman.

12. Workman in his evidence before this Tribunal stated that he received the enquiry report for the comments. He also stated that he never given any application to the department for enhancing limit. The initial limit of OD account was Rs. 10,000. He also admitted that as per bank record he was having the OD limit of 9500 and against F.D. it was Rs. 10,000. The workman though denied that he fabricated the limit from 9500 to Rs. 19500 and further fabricated to Rs. 49500. Through the Tribunal he replied that account of OD was in his name having cutting. Although he replied that the documents placed before him not prepared and maintained by him. In this context the Enquiry Office in his report found that workman Anil Rally had tallied the balance of SF ledger No. 13 fictitiously and

this part of the charge was found proved. The Enquiry Office further found that on ledger sheet the limit was enhanced to Rs. 19500 from 7.6.95 yet it is not understandable that how the passing officer has passed the cheque for Rs. 400 on 20.3.95 allowing the availment up to 18922. The Enquiry Office came to the conclusion that limit was factitiously increased from 9500 to 19500.

13. The learned counsel for the workman relied on 2002 LIC 880 Griffon Laboratories Vs. Maharashtra Shramik Sena, 1996 LIC 1178 BHEL Vs. Presiding Officer, Labour Court UP at Merrut and another and 1996 (2) SCT 690 Punjab State Co- operative Supply and Marketing Fed. Ltd. Vs. Presiding Officer. I have gone through the case laws placed on record by the learned counsel for the workman. The facts and circumstances of the case laws cited are quite different from the facts and circumstances of the case in hand. Therefore, the same are applicable.

14. From the record, it reveals that the workman was supplied copy of report for comments. The workman was given personal hearing which the workman availed and appellate authority also provided personal hearing to the workman which was duly availed by the workman and to this effect nothing has been pointed out by the workman in his evidencer or through documents.

15. The workman was charge sheeted for making factitious entries enhancing the OD limit of his account several times and withdrawing the money from his enhanced OD limits. This act of the workman is very serious in nature and he was given the punishment of compulsory retirement which is not disproportionate in the facts and circumstances of the case.

16. In view of the discussion above, as the workman failed to point out anything in the order passed by the disciplinary authority, therefore, it is held that the action of the management of Punjab National Bank giving compulsory retirement to Sh. Anil Kumar Rally ex-clerk - cum-Cashier from service w.e.f. 1-3-99 is just and legal and workman is not entitled to any relief.

Chandigarh

14-7-2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 29 जुलाई, 2015

कांआ० 1588.-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 149/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 29.07.2015 को प्राप्त हुआ था।

[सं० एल-12012/160/98-आईआर (बी०-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 29th July, 2015

S.O. 1588.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 149/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of UCO Bank and and their workmen, received by the Central Government on 29.07.2015.

[No. L-12012/160/98-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/149/99

Shri Gopalkrishna Dave,
S/o Shri Amritlalji Dave,
R/o Urdupura,
Tehsil and Distt. Ujjain.

....*Workman*

Versus

Asstt. General Manager,
UCO Bank,
Regional Office, E-5,
Arera colony,
Bhopal

....*Management*

AWARD

Passed on this 7th day of July, 2015

1. As per letter dated 26-30/3/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section - 10 of I.D. Act, 1947 as per Notification No. L-12012/160/98/IR(B-II). The dispute under reference relates to:—

"Whether the action of the management of UCO Bank in terminating the services of Shri Gopalkrishna Dave *w.e.f.* 19-11-91 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through General Secretary of Union at Page 4/1 to 4/7. Case of Ist party is that the workman was interviewed by Branch Manager on 1-8-87. After considering those documents, he workman was appointed as peon on daily wages Rs. 10/-. The workman was working in the Bank from opening till closing of the Bank. He was working with devotion. On 30-4-88, workman was called by Branch Manager. He was informed that Management was impressed

by his devotion and working. He was transferred to Maksi Road branch Ujjain on 2-5-88, workman was orally transferred to Maksi Road branch. He was working continuously in said branch. Muster roll was maintained, he was signing on Attendance Register. His salary was through Saving Account. He completed more than 240 days continuous service. On 20-12-88, workman was called for interview. After his interview, he was called by branch manager. He demanded amount of Rs. 2000 for his posting. Anyhow workman had arranged Rs. 1000 taking loan on 3% interest per month. Thereafter workman was not regularised. Workman had spent about Rs. 3000, that he completed 649 days from 1-8-87. His services were terminated on 19-11-91 without notice, retrenchment compensation was not paid to him. Workman submits that when he raised dispute before ALC, Bhopal, 2nd party contented that age of workman was less than 18 years therefore he was discontinued. Workman further submits that date of birth of other employee Shri S.N. Vyas was 6-5-69. He was appointed on 8-4-86 when his age was 16 years. Other employee Maharwal was of 17 years 1 month at the time of his initial appointment on 2-5-86, he was continued in Ujjain branch. Workman submits that he worked more than 240 days, his termination is in violation of Section 25-F of ID Act, para 507, para 524 of Desai Award. 2nd party also violated Section 25 G,H of ID Act. On such ground, workman prays for his reinstatement with backwages.

3. 2nd part filed Written Statement at page 6/1 to 6/6 opposing claim of the workman. Preliminary objection is raised by 2nd party that no documents are produced by Ist party authorizing to raise dispute. The reference is not tenable. 2nd party denies appointment of Ist party. Ist party workman was engaged as casual labour on daily wages as per exigencies on 1-8-87. The contentions of workman about transfer is denied. The pleadings are to mislead the court for taking wrongful benefit. It is denied that workman has taken charge of Maksi Road Branch of the Bank. Workman was engaged as casual labour in daily wages as per exigencies. No muster roll was maintained. The contents *w.r.t.* forwarding application for interview are admitted. The contentions of workman submitting applications for regularizing are not disputed. Workman was found ineligible as he was only of age of 17 years as on 1-8-87 *i.e.* date of appointment. As per settlement dated 20-10-89 between Union and management daily rated casual workers not fulfilled consideration age. The date of birth of workman is 2-7-70. He was below normal age of 18 years.

4. 2nd party denies for knowledge about personal dealing with other after his engagement are not admitted. Workman was disengaged for want of emergent work. Claim of workman is not tenable and deserves to be rejected. As per policy of Bank, staff is curtailed to avoid the loss. Regularization of other casual daily wage workers could not be allowed. The judgment in Writ Petition No. 1339/98 by Hon'ble Apex court is submitted. The claim of workman cannot be accepted.

5. Ist party workman filed rejoinder at Page 7/1 to 7/2 reiterating his contentions in statement of claim. It is submitted that one Mr. L.S. Vyas was appointed on 8-4-86 was below 18 years. He is still working in the Bank.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether the action of the management of UCO Bank in terminating the services of Shri Gopalkrishna Dave <i>w.e.f.</i> 19-11-91 is justified?”	In Affirmative
“(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

7. Point No. 1 - workman is challenging termination of his service for violation of Section 25-F, G, H of ID Act. Workman has pleaded that other persons below 18 years engaged in the Bank were continued. He had completed 649 days, he had completed more than 240 days continuous service, his services were terminated without notice. In support of his contentions, workman filed affidavit of his evidence. In his affidavit of evidence, workman has stated that he was engaged as permanent peon on 1-8-87, he was paid Rs. 10 per day. On 2-5-88, he was transferred to Maksi Road Branch. The wages were increased to Rs. 15,20,25,41 per day. He was paid bonus. Workman did not appear for his cross-examination. Union Representative submitted that he does not want to get witness cross-examined, his evidence is closed. As per ordersheet dated 7-5-2012, evidence of workman was not to be considered in the case. As Ist party workman though filed affidavit of his evidence in support of his claim, failed to appear for his cross-examination, his evidence cannot be considered in the matter.

8. Management filed affidavit of his Shri Arun Kumar Supporting contentions in Written Statement filed by the management. In his cross-examination, management's witness says during 1987-88, he was not working in the branch Ujjain. He was also not working in Maksi Road branch in 1980-81. His affidavit is prepared as per the record. The documents which he had seen are not produced in the case. He did not discuss the matter with Branch Managers working at the relevant time. The witness of management was unable to tell what procedure was followed before engaging workman. His name was sponsored through Employment Exchange. Workman was not interviewed. Permission of Controlling Authority was not obtained before engaging workman. Muster roll was not maintained. Workman was paid from miscellaneous fund. He claims

ignorance whether workman was paid salary through Saving Account. However the management's witness has admitted documents P-21, P-3, P-4. Those documents are marked as marked Exhibit W-1, W-2, W-3/1 to 3/2. Document P-3 shows 469 working days of Ist party workman during 12-10-86 to 11-10-89. The age of workman is shown 19 years. Document P-4 is letter issued by Dy. Chief Officer calling information about unauthorized engagement. Those documents do not clearly show working more than 240 days by workman preceding 12 months of his termination. Workman has not entered in witness box for his cross-examination therefore his evidence cannot be considered. Workman failed to establish that he was working more than 240 days preceding his termination. However the management in its written statement has pleaded that the age of Ist party workman was 17 years 29 days at the time of his first engagement, he could not be absorbed in the Bank.

9. Learned counsel for 2nd party Shri Bhattacharjee relies on ratio held in —

Case of management of G.C. of BCCL versus their workman. Their Lordship of the Apex court dealing with regularization held disability of being under age at the time of appointment held regularization based on much appointment cannot be upheld.

Reliance is placed in case of Pankaj Gupta versus State of J & K and others reported in 2004(9)SRJ 103. Their Lordship held no person illegally appointed or appointed without following procedure prescribed under law should be continued in service.

In case of Karur Vyas Bank Employees Union versus Presiding Officer, CGIT reported in 1988 LAB.I.C. 1746. Their Lordship considering Bank employees services of persons utilized intermittently to do certain work which arose only on certain occasions. Employment is of casual nature and not connected with work of Bank namely Banking work connected therewith. Failure of employee to prove that he worked for 240 continuous days in a year, provisions of Section 25-F is not attracted.

In case of Surendranagar District Panchayat versus Dahyabhai Amarsingh reported in 2006-SCC-(L&S) 38. Their Lordship dealing with Section 25-F, B, 2(oo) & 2(s) of ID Act held the fact must be proved by workman to claim protection under Section 25-F (i) there exists relationship of employer and employee, (ii) he is a workman under Section 2(s), (iii) establishment in which he is employed is an industry within meaning of the Act and (iv) he has put in not less than one year of continuous service as defined in Section 25-B under employer, if any one is missing then Section 25-F will not be attracted.

In present case, workman has not appeared for his

cross-examination as such his evidence cannot be considered. Documents Exhibit W-1 to W-3 do not show completion of 240 days continuous service preceding year of his termination. The claim of workman is not established.

10. Shri Bhattacharjee for 2nd party further relies on ratio held in Case of Union of India and others versus Bishamber Dutt reported in 1997 SCC (L&S) 478. Their Lordship held persons appointed as part time employees dehors the rules even though regularly working for a long time are not entitled to regularization. I make it clear that terms of reference does not include claim for regularization therefore the ratio held in above case cannot be applied to case at hand.

Next reliance is placed on ratio held in case of Secretary, State of Karnataka and others versus Umadevi and other reported in 2006 SCC-(L&S) 753. Their Lordship observed merely because an employee continued under cover of an order of the court under litigious employment or had been continued beyond the term of his appointment by the State or its instrumentalities, he would not be entitled to any right to be absorbed or made permanent in service, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules.

Reliance is also placed in ratio held in case of Secretary to Government School Education Department Chennai versus R. Govindswamy and others reported in 2014-2SCC(L&S) 108. Their Lordship dealing with question of regularization of part time sweeper working more than 10 years held mere continuation of service by a temporary or adhoc or daily wage employee under the cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be litigious employment which has been prescribed by the constitution bench.

The ratio held in the case cannot be applied to case at hand as service of Ist party workman was not protected. In above cited case, their Lordship also considered ratio held in Umadevi's case 2006(4) SCC-1 quoting that even temporary adhoc or daily wage service for a long number of years, let alone service for one or two years will not entitle such employee to claim regularization if he is not working against a sanctioned post.

As workman has not remained present for his cross-examination, his evidence cannot be considered. There is no cogent evidence that workman completed 240 days working preceding year of his termination. Therefore protection of Section 25-F cannot be allowed to the workman. Violation of Section 25-F is

not established. As workman failed to appear for cross-examination, violation of Section 25-G, H of ID Act is also not established. Therefore I record my finding in Point No. 1 in Affirmative.

11. In the result, award is passed as under:—

- (1) The action of the management of UCO Bank in terminating the services of Shri Gopalkrishna Dave *w.e.f.* 19-11-91 is proper and legal.
- (2) Workman is not entitled to any relief.

P.B. PATLE, Presiding Officer

नई दिल्ली, 29, जुलाई, 2015

कांआ० 1589.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 71/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2015 को प्राप्त हुआ था।

[सं एल-12012/14/2002-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 29th July, 2015

S.O. 1589.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/02) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 29/07/2015.

[No. L-12012/14/2002 - IR (B-II)]

RAVI KUMAR, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/71/02

Shri Rakesh Kumar Agarwal,
S/o Rameshchandra Agrawal,
422, Suresh Nagar, Thatipur,
Morar, Gwalior.

....Workman

Versus

Zonal Manager,
Punjab National Bank,
Zonal Office, Jawahar Bhawan,
Roshanpura,
Bhopal (MP)

....Management

AWARD

Passed on this 24th days of June 2015

1. As per letter dated 29-4-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section - 10 of I.D.Act, 1947 as per Notification No. L-12012/14/2002-IR (B-II). The dispute under reference relates to:

"Whether the action of the management of Zonal Manager, Punjab National Bank in ordering dismissal of the service of Shri Rakesh Kumar Agarwal *w.e.f.* 16-6-2000 is justified? If not, what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties, Workman submitted statement of claim at Page 2/1 to 2/3 Case of workman is that he was selected as peon on probation as per letter dated 11-4-85. He joined duty on 16-4-85. Workman was promoted as Daftary on 19-9-91. Chargesheet was issued to him on 19-2-99. Chargesheet was not accommodated with list of documents, list of witnesses, Workman has alleged that enquiry was not properly conducted, principles of natural justice were violated. Preliminary issue is decided as per order dated 29-10-2013. Enquiry conducted against workman was found legal. Therefore the pleadings in statement of claim about legality of enquiry are not required to be narrated in details. The Enquiry Officer recorded his finding that charges against workman were proved. Workman was dismissed from service as per order dated 12-06-00. Workman had challenged order of dismissal filing appeal. On 15-07-00, his appeal was dismissed as per order dated 3-10-00. Workman reiterated that the punishment of dismissal imposed as per the enquiry conducted illegally is not legal. Workman prays for setting aside order of dismissal and reinstatement with consequential benefits.

3. Management filed Written Statement at Page 5/1 to 5/12 opposing claim of the workman. IInd party had denied violation of bipartite settlement. It is not disputed that workman was working as Daftary during relevant period. However management submits that the performance and conduct of workman was not satisfactory since beginning. Workman was suspended on 11-07-96 for the misconduct of abusing the Manager. Chargesheet was issued to workman on 17-7-96. DE was conducted against workman giving opportunity for his defence. Workman had assured that he will not commit such acts in future and prayed for mercy. Considering his appeal, punishment of dismissal was modified to stoppage of six increments as per order dated 7-3-98. The suspension of workman was revoked.

4. After revocation of workman, he had reported on duty on 1-4-98. At that time workman was shouting against Manager pointing out the letter issued by Regional office. He was reinstated after period of 2 years. It is also alleged

that workman uttered that he will report to duty at 11.30 AM and would return back at 4.50 PM as he would attend his duty from Gwalior. Branch Manager did not agree to all above things. Workman insisted that Manager should give in writing. Even on next day, workman refused to bring ledger, carry cheque for payment to the cash cabin claiming that he was not peon but was daftary. Complaint is received from a cloth merchant that workman had committed theft of clothes from his house on roadside, it is further alleged that workman had submitted false report against Branch Manager. Considering disorderly, improper, riotious and indecent behaviour of the workman, he was suspended, chargesheet was issued to him alleging misconduct of various nature under different heads. That workman had misbehaved with Branch Manager insulted Branch Manager Shri Awasthi shouting, abusing, threatening the Branch Manager of serious consequences. submitting false complaints Branch Manager etc. It is alleged on 25-9-98, workman was found in drunkenness condition while handing over letter to the Branch Manager. Workman was accommodated with anti social elements. Workman was threatening Branch Manager Mr Sood. It is reiterated that after issuing chargesheet, Enquiry Officer and Presenting Officer were appointed. Enquiry was conducted on 1-5-99, 17-5-99, 6-6-99, 11-6-99, 25-6-99, 19-7-99, 17-8-99, 1-11-99, 9-12-99, 16-12-99, 7-1-00 and 14-1-00. It is submitted that workman was given opportunity for his defence. After recording evidence, Enquiry Officer submitted findings that charges against workman are proved. Considering the findings of Enquiry Officer, punishment is imposed after conducting enquiry is legal. IInd party submits that workman had failed to participate in Enquiry proceedings despite several opportunities given to him. Management has also pleaded that enquiry is found vitiated, management be given permission to prove misconduct in court.

Workman submitted rejoinder at Page 11/1 to 11/2 reiterating his contentions in statement of claim. Workman has further contented that the findings of Enquiry officer are perverse. The enquiry was conducted without giving opportunity for defence.

6. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

-
- | | |
|---|--|
| (i) Whether the misconduct alleged against workman | In Affirmative except 8 (f), (h) & (i) is proved from evidence in Enquiry proceedings? |
| (ii) Whether the punishment of dismissal imposed against workman is proper and legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |
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REASONS

7. As discussed above, the enquiry conducted against workman is found legal, question remains for consideration is whether the charges alleged against workman are proved from evidence in Enquiry proceedings. The next question would be whether punishment of dismissal imposed against workman is proper. Ist point whether charges against workman are proved needs to be decided from evidence in Enquiry proceedings. Register of Enquiry Proceedings is produced at Exhibit M-17. Management's witness examined Shri R.C. Soni incharge cashier on 1-4-98, Management's witness Shri R.C. Soni in his statement says on 1-4-98, workman had gone to join duty after his reinstatement had thrown the order on table of Manager, Manager told workman that he had come at 11 AM. He would be allowed to join duty on next day. Management's witness further says that workman was claiming he had come at 5 PM on 31-3-98. It was last day of the financial year. The Bank was opened till 9 to 10 PM. The Manager told workman that there was no question of joining on that day. Workman told Manager that every day he would attend Bank at 11.30 AM and will go by 5 PM. Manager do not agree to it. There was differences between Manager and workman. Management's witness further says on 2-4-98, Manager was sitting in his chair, he had asked workman to take ledger and withdrawal forms from counter of cashier to his table, workman told Manager that he was Daftary and not peon and would not take ledgers to him. The statement of management's witness Shri Shukla corroborates evidence of Shri Soni that workman was saying that he had come on transfer, he was under suspension for 2 years. He should be allowed to join duty otherwise Manager should give in writing that he would attend duty from Gwalior, Shri Shukla Management's witness in his further statement says that workman had threatened Manager of serious consequences. Workman told Manager that several gundas were his friends. Management's witness further says that on 25-9-98 around 11.30 AM, workman was found under intoxication, gundas were accompanying him, workman and his associates have given abuses to the Manager. The statement of Management's witnesses Mr. Soni, Shukla is corroborated by other witnesses. That workman had shouted against Manager. Workman had abused Manager in the name of his mother, sister using indecent language. Even after workman was pursued, he did not stop his abuses and indecent behavior. Statement of management's witness at page 19 of the Enquiry proceedings shows that workman had told Manager that he was residing in rented house. Workman was residing near to Manager's house and he was causing harassment to his family members. The evidence of management's witnesses discussed above is about misbehavior by workman abusing, insulting, threatening Manager and his family members coming under intoxication. The charges against workman are complaint received against workman about theft of clothes is not

substantiated by any kind of evidence. The merchant who complained is not examined before Enquiry officer, any such report is not produced on record. The evidence is not clear to which police station, report was filed. The report was found false by police is not established from the evidence. Similarly the charged workman was in drunken condition on 25-9-98, handing over letter, workman was accompanying by associate elements. The evidence on record does not disclose name of person accompanying the workman, whether the incident was reported to police, whether workman was examined by the Medical Officer and found in drunken condition. No such evidence is adduced by the management therefore Charge No. 8(f), (h) & (i) alleged against workman cannot be proved from evidence in Enquiry Proceedings. The findings of Enquiry officer w.r.t. 8(f), (h) & (i) are not supported by evidence and as such are perverse. Rest of the charges against workman are proved from evidence in Enquiry Proceedings. I record my finding in Point No. 1 in Negative.

8. Point No.2— in view of my finding in Point No.1 except charge No. 8(f), (h) & (i), remaining charges proved against workman. The document produced by management Exhibit M-4 is order dated 7-3-98 is order of revocation of suspension. The punishment of dismissal of workman was modified to stoppage of six increments after considering the apology submitted by workman. Said punishment was imposed w.r.t. prior to incident. In present case, except charge No. 8(f), (h) & (i), all other charges are proved against workman. The charges proved against workman pertains to workman disobeying to take register, withdrawal vouchers from cashiers to table of Manager, abusing in indecent language, threatening Branch Manager, threatening family members of Branch Manager. The service record of Ist party workman was not good as he was imposed punishment of withholding six increments in the past, the question remains for decision whether punishment of dismissal imposed against workman is proper and legal? The proved charges against workman are about his personal behavior. Bank has not suffered any kind of loss.

9. Learned counsel for Ist party workman has placed reliance on ratio held in case of

"Scooter India Limited Lucknow *versus* Labour Court, Lucknow reported in AIR 1989-SC-149. Their Lordship of the Apex Court dealing with termination of service. Disciplinary enquiry found to be fair and lawful and its findings were not vitiated in any manner. That by itself would not be ground for non interference with order of termination of service by Labour Court. Direction by Labour Court in the facts for reinstatement of employee with 75% back wages on ground that erring workman should be given opportunity to reform himself and prove to be loyal ad disciplined employee of company was upheld.

Next reliance is placed in case of Haryana Urban Development Authority *versus* Devi Dayal reported in 2002(93)FLR 327. Their Lordship allowed 50%

backwages instead of full backwages since workman was engaged in work during the period of his termination.

In present case, workman was given opportunity to improve his conduct, earlier order of his dismissal was modified to withholding of six increments therefore the ratio cannot be beneficially applied to present case at hand.

10. At the same time, what is nature of charges proved against workman needs to be considered while deciding propriety of the dismissal. The charges proved against workman pertains to misbehavior with Branch Manager abusing, disobeying, threatening the family members. Workman was earlier dismissed from service. The punishment was modified to withholding of six increments. The reinstatement of workman would not be justified considering the proved charges, misbehavior with Branch Manager and past service record. Punishment of dismissal deserves as a civil death not only for an employee but has serious impact on family members also. The continuance of workman in bank employee should not be allowed in view of proved charges of serious nature. Considering workman joined service in the year 1985, punishment of dismissal was imposed in the year 2000, workman had almost completed 15 years service, punishment of dismissal appears harsh and disproportionate to the proved charges. Workman filed affidavit of his evidence on other issues. His evidence in cross-examination shows his family consists of his wife, daughters and son studying in 5th standard. His family's expense is about 4000 to 5000 Rs. per month. Workman further deposed that he is supported by several persons for attending his case, for supporting his family. It cannot be a ground for deciding proportionality of the punishment. In view of the proved charges and earlier punishment of dismissal modified to withholding six increments, reinstatement of workman cannot be allowed. The punishment of compulsory retirement would be appropriate. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:—

- (1) The action of the management of Zonal Manager, Punjab National Bank in ordering dismissal of the service of Shri Rakesh Kumar Agarwal *w.e.f.* 16-6-2000 is not proper and legal.
- (2) The punishment of dismissal from service is modified to compulsory retirement.

Parties to bear their own costs.

R. B. PATLE, Presiding Officer

नई दिल्ली, 29 जुलाई, 2015

कांआ 1590.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (33/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/07/2015 को प्राप्त हुआ था।

[सं एल-12011/267/2000-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 29th July, 2015

S.O.1590.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 33/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 29/07/2015.

[No.L-12011/267/2000-IR(B-II)]

RAVI KUMAR, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR NO. CGIT/LC/R/33/2001

Vice President,
Punjab National Bank Employees Association,
C/o PNB 74, Iqbal Nagar,
Nagar Nigam Colony,
Ashoka Garden, Raisen Road,
Bhopal (MP)

...Workman/Union

Versus

Regional Manager,
Punjab National Bank,
Regional Office,
Shikhar Varta Press Complex,
MP Nagar, Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 29th day of June 2015

1. As per letter dated 6-2-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12011/267/2000-IR(B-II). The dispute under reference relates to:

"Whether the action of the management of Punjab National Bank Regional Office, Bhopal by not allowing to attend the promotional test to Shri Rajendra Kumar Raikwar is justified or not? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through Union at Page 4/1 to 4/4. Management filed Written Statement opposing claim of the Ist party at page 10/1 to 10/4. When case was fixed for evidence, management had filed application submitted by workman for withdrawal of his claim. Today workman alongwith Secretary of Union submitted application for withdrawal of his claim. Management has given No Objection. As Ist party workman and Secretary of Union have admitted contents of application for withdrawal of claim and workman is not inclined to prosecute his claim, the award is passed as under:—"Dispute between parties could not be decided on merit as Ist party workman withdrew his case. No orders as to cost."

R.B.PATLE, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

कांआ 1591.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 01/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31/07/2015 को प्राप्त हुआ था।

[सं० एल-20012/52/2013-आई आर (सीएम-1)]

एम० के० सिंह,, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O.1591.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 01/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 31/07/2015.

[No. L-20012/52/2013-IR(CM-I)]

M.K.SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act, 1947.

Reference: No. 01/2014

Employer in relation to the
management of Lodna Area
M/s. B.C.C.L.,

AND

Their workmen.

PRESENT:

SRI R.K. SARAN, Presiding Officer.

APPEARANCES:

For the Employers : Shree D.K. Verma, Advocate
For the workman : None
State : Jharkhand
Industry : Coal
Dated 10/7/2015

AWARD

By Order No. L-20012/52/2013-IR (CM-1) dated 16/12/2013, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Lodna Colliery of M/s BCCL in fixing after conversation from P.R wagon Loaders to T.R General Mazdoor-I in respect of S/Sri Ramashray Rabidas and 12 other is fair and justified? To what relief the concerned workers are entitled to?"

Annexure

List of workmen

1. Shri Ramashray Ravidas
2. Shri Dwarika Mahato
3. Shri Chhotu Barhi
4. Shri Anchha Bhuia
5. Shri Gopal Chamar
6. Shri Kyum Ansari
7. Shri Baldeo Dhari
8. Shri Santosh Kumhar
9. Sri Patit Pawan Kumhar
10. Md. Safique Alam
11. Shri Rakhal Bouri
12. Shri Samar Chamar
13. Shri Santosh Bouri

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

का०आ० 1592.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 37/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31/07/2015 को प्राप्त हुआ था।

[सं० एल-20012/39/2013-आई आर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O. 1592.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 31/07/2015.

[No. L-20012/39/2013-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act, 1947.

Reference: No. 37 of 2013

Employer in relation to the management of Bastacolla Area of M/s. B.C.C.L.,

AND

Their workmen.

Present :

SRI R.K. SARAN, Presiding Officer

APPEARANCES:

For the Employers : Shree D.K. Verma, Advocate

For the workman : Shree S. C. Gour, Rep.

State : Jharkhand

Industry : Coal

Dated 10/7/2015

AWARD

By Order No. L-20012/39/2013-IR (CM-1) dated 26/08/2013, the Central Government in the Ministry of

Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bastacolla Colliery of BCCL in not providing employment to Sri Suraj Deo Bhuia Dependant son of Late Akal Bhia under the provision of NCWA is fair and justified? To what relief Sri Suraj Deo Bhuia dependant son of Late Akal Bhia is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld Counsel for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

का०आ० 1593.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 04/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31/07/2015 को प्राप्त हुआ था।

[सं० एल-20012/59/2013-आई आर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O.1593.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workman, received by the Central Government on 31/07/2015.

[No. L-20012/59/2013-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act, 1947

Reference: No. 04 of 2014

Employer in relation to the management of Kustore Area of M/s. BCCL,

AND

New Delhi, the 31st July, 2015

Their workmen.

SRI R.K. SARAN, Presiding Officer

APPEARANCES

For the Employers : Shree Nitish Sahay, Advocate

For the workman : Shree K.N. Singh, Rep.

State : Jharkhand

Industry : Coal

Dated 9/7/2015

AWARD

By Order No. L-20012/59/2013-IR (CM-1) dated 01/01/2014, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Alkusa Colliery under erstwhile Kustore Area and now under Kusunda Area of M/s. BCCL in not regularizing Sri Deepak Prakash Singh in the post of Attendance Clerk is fair and justified? To what relief the concerned workman is entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld Counsel for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

कांआ 1594.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1 धनबाद के पंचाट (संदर्भ संख्या 176/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31/07/2015 को प्राप्त हुआ था।

[सं० एल-20012/412/1999-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

S.O.1594.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 176/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 31/07/2015.

[No. L-20012/412/1996-IR (C-I)]

M.K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A)
of I.D. Act. 1947

Reference No. 176 of 1999

Employer in relation to the management of Kusunda Area,
M/s. BCCL

AND

Their workman

PRESENT

SRI R.K. SARAN, Presiding Officer

APPEARANCES

For the Employers : Sri S.N. Ghosh, Advocate

For the Workman : Sri R.K. Mukherjee, Rep.

State : Jharkhand

Industry : Coal

Dated 17/7/2015

AWARD

By Order No.-L-20012/412/1996 IR-(C-1), dated 03/11/1999, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act., 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of National Coal workers congress for regularisation of Sri Bhichan Rajak and 5 others washermen by the management of Kusunda Area of M/s. BCCL is legal and justified, if so, what direction in this connection is required to be given?"

List of workmen in not enclosed with Order of reference

2. The case is received from the Ministry of Labour on 07.12.1999. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 18.01.2002. And the management files their written statement-cum-rejoinder on 21.06.2002. One witness examined on behalf of the workman.

3. The workman who are by profession washerman, have claimed to be regularised as workman, on the pretext that they have been washing table cloth, carpets, towels of the management offices, Kusunda Area and receiving payments.

4. On the other hand management submitted, that any body can wash and receives payment, but there is no question of regularisation.

5. The workman though examined, has not stated that they are engaged by contractors, though plea was taken that electricity and detergent was provided by the management, that has not been proved by the workman.

6. There is no appointment letter, even no name of the contractor and workmen. The management is at liberty to engage any one for wash for any other work. But direction of regularization can not be given, unless there is a post like that.

7. Considering the facts and circumstances of this case, I hold that the demand of National Coal workers congress for regularisation of Sri Bhichan Rajak and 5 other washermen by the management of Kusunda Area of M/s. BCCL is not legal and justified. Hence the claim of the workman is negative, and they were not entitled to get any relief.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

कांआ०1595.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 2, धनबाद के पंचाट (संदर्भ संख्या 89/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31/07/2015 को प्राप्त हुआ था।

[सं० एल-20012/594/2000-आई० आर० (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O. 1595.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 89/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial

dispute between the management of M/s. CCL and their workmen, received by the Central Government on 31/07/2015.

[No. L-20012/594/2000-IR (C-I)]

M.K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD****PRESENT**

SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act., 1947

Reference No. 89 of 2001**PARTIES**

The Secretary.

R.C.M.S., Sirka Colliery,

PO: Argada, Dist. Hazaribagh,

Versus

The Project Officer,

Sirka Colliery of M/s. CCL,

P.O. Argada, Dist. Hazaribagh

Order No. L-20012/594/2000(C-I) dt. 16.3.2001**APPEARANCES**

On behalf of the : Mr. N.G. Arun,
workman/Union Ld. Rep. of the Union

On behalf of the : Mr. D.K. Verma
Management Ld. Adv.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 30th June, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/594/2000(C-I) dt. 16.3.2001.

SCHEDULE

"Whether the action of the Management of Sirka Colliery of M/s C.C. Ltd. in not providing employment to Smt. Bachchi Devi w/o Late Rameshwar or her son Nageshwar Ram is justified? If not, to what relief the said dependants(s) of the workman concerned entitled?"

2. Neither the Union Representative nor petitioner Bachchi Devi or her son Nageswhwar Ram appeared but Mr. D.K. Verma, the Ld. Advocate for the OP/Management is present without any Management witness for his evidence.

Perused the case record. I find the case has been pending for the evidence of the OP/Management. The Instant Reference relates to an issue over providing an employment to Smt. Bachchi Devi w/o Late Rameshwar or her son Nageshwar Ram. But in spite of giving more than ample opportunity for her evidence, not a single witness was produced on her behalf within the period from 21.04.2004 to 30.03.2006, so the evidence of the petitioner/workman was closed as per order No. 16 dt. 30.03.2006 by the Tribunal. When the petitioner on whom the onus of proof lies fails to produce any evidence at the point of the reference, it seems absolutely unreasonable to run the case on the point of producing Management witness.

Under these circumstances, it is useless to proceed further for evidence of the OP/Management. In result, the case is closed as no Industrial Dispute existent between both the parties. Accordingly, an order of 'No Dispute' is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

का०आ० 1596.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 32/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.07.2015 को प्राप्त हुआ था।

[सं० एल-20012/255/2003-आई०आर०(सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O.1596.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 32/2004) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 31.07.2015.

[No. L-20012/255/2003-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

In the Matter of Reference U/S 10(1) (D) (2A) of I.D. Act, 1947

Ref. No. 32 of 2004

Employers in relation to the management of P.B. Area of M/s. B.C.C.L.

AND

Their workmen

PRESENT

SRI RANJAN KUMAR SARAN, Presiding Officer
APPEARANCES:

For the Employers : Sri D.K. Verma, Advocate

For the Workman : Sri U.P. Sinha, Advocate

State : Jharkhand

Industry : Coal.

Dated: 07.07.2015

AWARD

By Order No. L-20012/255/2003-IR(C-I), dated 26/03/2004, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bhartiya Mazdoor Sangh from the management of South Balihari Colliery of M/s. BCCL for regularising Sri Raj Bahadur Yadav as Supervisor (Dhowra Supervisor as the analogous cadre/post) from the date, he has been authorised to work as water supervisor is justified? If so, to what relief is the concerned workman entitled and from what date?"

2. The case is received from the Ministry of Labour on 19.04.2004. After notice both parties appeared, the Sponsoring Union files their written statement on 26.04.2006. Thereafter the management files their written statement-cum-rejoinder on 11.12.2009. One witness each side examined on their behalf. Document marked as W-1 to W-9 and X to X/8.

3. The claim of the workman to be regularised in the post of Dhowra Supervisor or in its analogous post. Both parties file their claim statement and the workman has been examined as WW-1. But he has clearly stated in his evidence that he has not been entrusted to work as Dhowra

supervisor and he also further stated that he was not selected for promotion to the said post, and he was not authorised to work in water treatment plant.

4. In view of his clear admission, that he was not worked as Dhowra supervisor. Hence he can't be regularised in that post.

5. Considering the facts and circumstances of this case, I hold that the demand of the Bhartiya Mazdoor Sangh from the management of South Balihari Colliery of M/s. BCCL for regularising Sri Raj Bahadur Yadav as Supervisor is not justified. Hence he not entitled to get any relief.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

का.आ. 1597.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1ए धनबाद के पंचाट (संदर्भ संख्या 79/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.07.2015 को प्राप्त हुआ था।

[सं० एल-20012/179/2003-आईआर(सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O.1597.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 79/2004) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 31.07.2015.

[No. L-20012/179/2003-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

In the Matter of Reference U/S 10(1) (D) (2A)
of I.D. Act, 1947

Ref. No. 79 of 2004

Employers in relation to the management of C.V. Area of M/s. B.C.C.L.

AND

Their workmen

PRESENT:

SRI RANJAN KUMAR SARAN, Presiding Officer

APPEARANCES :

For the Employers : Sri S.N. Ghosh, Advocate
For the Workman. : Sri Lall Sahdeo Prasad, Rep.
State : Jharkhand
Industry : Coal.
Dated: 15.07.2015

AWARD

By Order No. L-20012/179/2003-IR(C-I), dated 17/12/2003, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"(i) Whether the action of the management of Basantimata Colliery under C.V. Area of M/s. BCCL in not protecting the wages of Shri Naudad Ansari, Md. Suleman Ansari, Jahangir Ansari, Kaukat Ali Ansari, Almin Ansari and Nasuruddin Ansari while converting them from P.R to T.R job is justified? If not, to what relief are the concerned workmen entitled?"

2. The case is received from the Ministry of Labour on 01.01.2004 by CGIT No. 2 Dhanbad. But the case relates to CGIT No. 1, same is received by CGIT No. 1 Dhanbad on 20.07.2004. After notice both parties appeared, the Sponsoring Union files their written statement on 27.12.2004, the management files their written statement-cum-rejoinder on 17.05.2005. Thereafter rejoinder and document filed by the parties.

3. One witness each examined by both sides. Document of workman marked as W-1 to W-10. During the pendency of this case, one workman out of six, Sri Almin Ansari has died and his wife Smt. Safiran Khatoon is substituted.

4. Short point to be decided in the reference as to whether the workman concerned, who were piece rated workmen, subsequently became time rated workmen, will be entitled to pay protection or not, and they will be entitled to SPRA or not.

5. As per the Rules of the management, if the management converted piece rated worker to time rated the management, is to protect their pay alongwith SPRA.

6. But it is submitted by the management in this particular case, on the request of the workmen, they were converted to piece rated to Time rated workmen. In support of that the management filed a settlement between the Union and the management filed in this case the relevant terms are as follows:—

"That is further agreed to carry out the pay fixation shall be done from the date of regularization without any arrears in this regard *i.e.* SPRA at the time of regularization will be added to initial basic of the category in which they were regularized."

7. This being the situation, if the management already implemented the settlement, the workman is nothing to get. If the same is not implemented, the management is directed to implement the same forthwith.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 31 जुलाई, 2015

का०आ० 1598.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 301/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.07.2015 को प्राप्त हुआ था।

[सं० एल-20012/231/2000-आई आर(सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 31st July, 2015

S.O.1598.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 301/2000) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 31.07.2015.

[No. L-20012/231/2000-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 301 of 2000

Employer in relation to the management of Simlabahal Colliery, Kustore Area, M/S BCCL

AND

Their workmen

PRESENT :

SHRI R.K. SARAN, Presiding Officer

APPEARANCES :

For the Employers : None

For the Workman : Shri R.R. Ram, Rep.

State : Jharkhand.

Industry : Coal

Dated: 8/7/2015

AWARD

By order No. L-20012/231/2000/IR (CM-1) dated 29/09/2000, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of BCCL, Kustore Area in dismissing Shri Mangla Bhuiya from services *w.e.f.* 17.02.96 is just and fair? If not, to what relief is the concerned workman entitled?"

2. After receipt of the reference, both parties are noticed. Both parties appeared. But appearing for certain dates, Ld. Counsel for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate

R.K. SARAN, Presiding Officer

नई दिल्ली, 5 अगस्त, 2015

का०आ० 1599.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, पटना के पंचाट 02 (सी) ऑफ 2014 के शुद्धिपत्र प्रकाशित करती है, जो केन्द्रीय सरकार को 05/08/2015 को प्राप्त हुआ था।

[सं० एल-39025/01/2010-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 5th August, 2015

S.O.1599.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Corrigendum Award (I.D. No. 02(C) of 2014) of the Indus. Tribunal-cum-Labour Court, Patna as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen, received by the Central Government on 05/08//2015.

[No. L-39025/01/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Industrial Dispute Case No. : 02 (C) of 2014

Between the management of Zonal Manager, UCO Bank Zonal Office, S.K. Trafadar Road, Near Koilaghat Adampur, Bhagalpur

AND

Their workman Shri Dablu Kumar, S/O Shri Banke Behari Pandey Vill. & P.O. Baijani, P.S. Jagdishpur, Dist. Bhagalpur,

THROUGH

The State Secretary, UCO Bank Employees Association, Bihar State Committee, 2nd Floor, Saboo Complex, P.O. Hotel Republic, Exhibition Road, Patna-800001.

For the Management : Shri Ashutosh Nath Acharya, Senior Manager, UCO Bank, Bhagalpur.

For the workman : Shri B. Prasad, State Secretary, UCO Bank Employees Association, 2nd Floor, Saboo Complex, P.O.-Hotel Republic Exhibition Road, Patna-800001.

PRESENT :

BIPIN DUTTA PATHAK, Presiding Officer

Industrial Tribunal, Patna

AWARD

Patna, dated: 22nd June, 2015.

This application has been filed under the provisions of Section-2A (1) & (2) of the Industrial Disputes (Amendment) Act, 2010. This case has been filed by the workman Shri Dablu Kumar against the management of UCO Bank, Zonal Office, Bhagalpur for seeking relief of wrongful termination of the workman who was part time sweeper in the bank.

2. Case was pending for the evidence of the management. In this case both parties had appeared and written statement was also filed on behalf of the management bank.

3. Today attendance has been filed on behalf of the management and the workman through State Secretary, UCO Bank Employees Association, namely Shri B. Prasad, representative of the union.

4. Petition has been filed on behalf of the workman stating therein that he was working temporarily in UCO Bank, Zonal Office, Bhagalpur as sweeper. He was removed from the service and as such he has filed this case before this tribunal. He without any pressure wants to withdraw this case. Now he has no dispute or complaint against the bank.

5. On the point of compromise W.W-1 Dablu Kumar has been examined today and in his evidence he has stated that he was working since 1st September, 2007 in UCO Bank Branch Baijani but he was removed from the service after 09.10.2013. Now he has been again appointed and he is working in the bank since 04.02.2015 and posted at Khaisar Branch, Dist.-Banka.

6. He further stated that after removal from the service he filed Industrial Dispute Case No.- 02 (C) of 2014 and he withdraw of this case without any pressure. Now he has no complaint or dispute from the bank. In cross-examination he has stated that he has no complaint and dispute against the bank and he requested to pass "No Dispute Award".

7. Since the workman wants to pass "No Dispute Award" and he has no complaint or dispute against the bank and he has again been appointed so "No Dispute Award" is passed in this case.

This is my award accordingly.

Dictated & Corrected by me.

BIPIN DUTTA PATHAK, Presiding Officer

नई दिल्ली, 7 अगस्त, 2015

का.आ. 1600.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हरिसोंस मलयालम लिमिटेड, एर्णाकुलम, केरल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में नेशनल इंडस्ट्रियल ट्रिब्यूनल के पंचाट (संदर्भ संख्या 02 of 2014) प्रकाशित करती है, जो केन्द्रीय सरकार को 13/07/2015 को प्राप्त हुआ था।

[सं. एल-51014/1/2000-आई आर (पीजी)]

अशोक कुमार सिंह, उप निदेशक

New Delhi, the 7th August, 2015

S.O. 1600.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. Misc. Application No. 02 of 2014) of the National Industrial Tribunal at Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Harrisons Mallayalam Ltd., Ernakulam, Kerala and their workmen, which was received by the Central Government on 13/07/2015.

[No.L-51014/1/2000-IR(PG)]

ASHOK KUMAR SINGH, Dy. Director

ANNEXURE

NATIONAL INDUSTRIAL TRIBUNAL AT KOLKATA

Misc. Application No. 02 of 2014

U/S. 33A of the I.D. Act, 1947

(Arising out of Reference No. NT-01 of 2000)

PARTIES:

The Secretary,
Plantation Employees Union
Regd. No. 478/86 (CITU),
Punalur P.O. 691305,
Kollam District, Kerala State

.... Applicant.

Versus

The Managing Director,
M/s. Harrisons Malayalam Ltd.,
Bristow Road, Willington Island,
Cochin-3, Ernakulam District,
Kerala State

.... Opp. Parties.

PRESENT:

JUSTICE DIPAK SAHARAY, Presiding Officer

APPEARANCE

On behalf of the Applicant	: None
On behalf of the Opp. Parties	: None
State	: National.
Industry	: Plantation.

Dated: 10th April, 2015.

AWARD

This is an application under Section 33A of the Industrial Disputes Act, 1947 filed by the General Secretary, Plantation Employees Union, Punalur P.O. 691305, Kollam District, Kerala State alleging change of service condition of the concerned workmen during the pendency of Reference No. NT-01 of 2000 before this Tribunal.

2. When the case is taken up today for hearing, none appears on behalf of either of the parties inspite of service of notice. It appears from the record that inspite of receiving notice the Applicant of this case has not turned up since 19.12.2014.

3. From the above facts and circumstances it appears that the Applicant is not interested to proceed with the instant case further. In view of the above, present application under Section 33A of the Act is rejected being not moved.

4. An Award is accordingly passed.

Justice DIPAK SAHARAY, Presiding Officer

Dated, Kolkata,

The 10th April, 2015.